



**No. PSVAHA2017-05**

**Request for Proposals (“RFP”)**

**Development Partner For**

**1190 Burrard Street, 1210 Seymour Street and  
177 West Pender Street**

**Issued: July 24, 2017**



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**PART A – INFORMATION AND INSTRUCTIONS**

**1.0 THE RFP**

1.1 This Request for Proposals (the “**RFP**”) provides an opportunity to submit proposals for review by the Vancouver Affordable Housing Agency Ltd. (the “**Housing Agency**”) and, depending on the Housing Agency’s evaluation of proposals, among other factors, to potentially negotiate with the Housing Agency to enter into a contract. **EXCEPT WHERE EXPRESSLY STATED OTHERWISE IN APPENDIX 1 TO PART C OF THE RFP: (I) NO PART OF THE RFP CONSISTS OF AN OFFER BY THE HOUSING AGENCY (“HOUSING AGENCY”) OR THE CITY OF VANCOUVER (“CITY”) TO ENTER INTO ANY CONTRACTUAL RELATIONSHIP; AND (II) NO PART OF THE RFP IS LEGALLY BINDING ON THE HOUSING AGENCY OR THE CITY OF VANCOUVER.**

1.2 The RFP concerns the Housing Agency’s interest in arranging the lease of City of Vancouver (“City”) owned land to a partner who will design (where applicable), build, finance and operate a new affordable rental housing project at 1190 Burrard Street, 1210 Seymour Street and 177 West Pender Street (the “**Project**”), as further described in this RFP. Interested parties (“Proponents”) are advised that the Housing Agency, at its own discretion, may or may not decide to move forward with separate negotiations for the Projects such as but not limited to:

- a) Two (2) separate negotiations on the Project with different Proponents; or
- b) One (1) negotiation with Proponent on the Project in its entirety and the ability to not proceed to negotiate with the Proponent with the highest total evaluative score.

The purpose of the RFP is to lease land belonging to the City to the successful Proponent(s) to develop affordable housing. The Housing Agency requires Proponent teams that are made up of a combination of development partners, financing partners and housing operators or where such expertise and competencies are evident within the Proponent’s organization.

The Housing Agency would prefer to award all the sites in all three RFPs (this RFP as well as the sites which forms part of the two related RFPs namely PSVAHA2017-04 and PSVAHA2017-03) to one Proponent. Where there are no proposals received involving all sites, the Housing Agency will accord preference to proposals involving all or multiple sites within an RFP bundles. The evaluation by the Housing Agency of proposals received will reflect such a hierarchy of preferences accordingly. However, a Proponent may choose to provide proposals for any of the sites individually or, where applicable, as part of any combination thereof. The basis for preferring a proposal involving (i) all sites in all RFP bundles or (ii) some or all sites in an RFP bundle will take into consideration various factors including the Housing Agency’s objective of delivering affordable housing expeditiously on all sites.

Each Proponent will be required to provide their proposal, in general, under the scenario as described below:

- a) General Scenario – Upon discharge of all conditions precedent, the City will lease the land to the Proponent for the amount of prepaid lease, if any, in their proposal or such other amount as agreed between the Parties. The Proponent will be required to design, build, finance and operate the Project in accordance with their proposal or as detailed in the

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development agreement, operating agreement or such other agreements as necessary between the Parties; and

- b) Exceptions – For some sites, the Housing Agency has advanced the development process particularly in terms of (i) design development and/or (ii) permitting. For these sites, the Proponent will develop a proposal as per the General Scenario modified by incorporating the current stage of development work already completed.

The Proponent will secure all necessary equity and debt funding including but not limited to construction loans and mortgage take-out to finance the costs of developing these properties.

The Proponent may operate the development directly or appoint a third-party property manager to operate the development. For the avoidance of doubt, the Proponent will be ultimately accountable and responsible for the operation of the development. The Proponent will be required to share the contract details, if not the contract, with the Housing Agency. The Housing Agency expects that all parties will work collaboratively in the interest of achieving maximum affordability and reducing timelines to reduce cost overruns and avoid project delays to construct the Projects.

### 1.3 BACKGROUND

In 2014, Vancouver City Council, acting on recommendations from the Mayor’s Task Force on Housing Affordability, approved the creation of the Housing Agency. The Housing Agency is an entity that is separate from, but accountable to the City of Vancouver, with the City as the sole shareholder. The Housing Agency’s mandate is to expedite the delivery of affordable housing options to achieve the objectives set out in the City’s Housing and Homelessness Strategy (2012-2021) by facilitating the development of selected City-owned sites.

The Housing Agency’s Business Plan contemplates delivery of 2,500 affordable housing units on City lands by 2021. The Housing Agency will identify City-owned sites that are appropriate for development as affordable housing. The Housing Agency will act as agent for the City and seek partnership arrangements with private developers, construction contractors, professional consultants, charitable or non-profit organizations and/or senior levels of government to deliver such affordable housing.

- 1.4 Details of the Housing Agency’s objectives and requirements to which the RFP relates are set out in the RFP. The Housing Agency welcomes proposals that are responsive to this RFP (“**Proposals**”) respecting innovative or novel approaches to the Housing Agency’s objectives and requirements.

- 1.5 The Housing Agency is interested in selecting an entity, which is not, by the terms hereof, barred from submitting a Proposal, and which does submit a Proposal (each such entity, a “**Proponent**”) with the capability and experience to efficiently and cost-effectively meet the objectives and requirements described in the RFP. The Housing Agency currently expects to select such a Proponent and then enter into negotiations with that Proponent, which will conclude in the execution of a contract between the Proponent and the Housing Agency (such a contract, an “**Agreement**”). However, the Housing Agency may: (i) decline to select any Proponent; (ii)

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decline to enter into any Agreement; (iii) select multiple Proponents for negotiation; or (iv) enter into one or more agreements respecting the subject matter of the RFP with one or more Proponents or other entities at any time. The Housing Agency may also terminate the RFP at any time.

- 1.6 The Housing Agency currently intends that Proposals will be evaluated by the Housing Agency in relation to their overall value, which will be assessed in the Housing Agency's sole and absolute discretion. In assessing value, the Housing Agency expects to consider the factors described in Section 8 below, among others.
- 1.7 **NO BID SECURITY IS REQUIRED FROM PROPONENTS IN CONNECTION WITH THE SUBMISSION OF PROPOSALS BECAUSE NO PROPOSAL WILL BE DEEMED TO BE AN IRREVOCABLE OR OTHERWISE BINDING LEGAL OFFER BY A PROPONENT TO THE HOUSING AGENCY. THE LEGAL OBLIGATIONS OF A PROPONENT THAT WILL ARISE UPON THE SUBMISSION OF ITS PROPOSAL WILL BE LIMITED TO THE TERMS AND CONDITIONS STATED UNDER THE HEADING "LEGAL TERMS & CONDITIONS" IN APPENDIX 1 TO THE FORM OF PROPOSAL.**
- 1.8 The execution of an Agreement may be contingent on funding being approved, and the relevant Proposal being approved, by the City of Vancouver Council and the Housing Agency Board.
- 1.9 The RFP consists of four parts, plus appendices:
- (a) PART A – INFORMATION AND INSTRUCTIONS: This part is intended to serve as a guide to the RFP process for Proponents.
  - (b) PART B – HOUSING AGENCY REQUIREMENTS: This part describes the subject matter of the RFP, in respect of which the Housing Agency invites Proposals. For this RFP the requirements have been divided into two sections, B1 for requirements for 1190 Burrard Street, B2 for requirements for 1210 Seymour Street and B3 for requirements for 177 West Pender.
  - (c) PART C – FORM OF PROPOSAL: This is the form in which the Proposal should be submitted.
  - (d) PART D - FORMS OF AGREEMENT: This part contains a model Agreement (the "**Forms of Agreement**"). Any Agreement resulting from the RFP is expected to be substantially in the forms of the Forms of Agreement.

**2.0 KEY DATES**

2.1 Potential Proponents should note the following key dates:

Event	Time and Date
Deadline for Enquiries	<b>Date: September 7, 2017</b>
Closing Date and Time	<b>Date: September 15, 2017</b> <b>Time: 3:00 pm</b>

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2.2 All references to time in the RFP are references to the time in the City of Vancouver, as shown on the clock used by the City for the purposes of requests for proposals.

**3.0 CONTACT PERSON**

3.1 All enquiries regarding the RFP must be addressed to:

Jim Lowood, SCMP  
Contracting Specialist  
Supply Chain Management  
City of Vancouver

Email: jim.lowood@vancouver.ca

3.2 All enquiries must be made in writing. In-person or telephone enquiries are not permitted.

3.3 **IF A POTENTIAL PROPONENT BELIEVES THAT THE HOUSING AGENCY MAY BE UNABLE TO SELECT IT DUE TO A CONFLICT OF INTEREST, BUT IS UNCERTAIN ABOUT THIS, THE POTENTIAL PROPONENT IS URGED TO CONTACT THE ABOVE-MENTIONED INDIVIDUAL AS SOON AS POSSIBLE WITH THE RELEVANT INFORMATION SO THAT THE HOUSING AGENCY MAY ADVISE THE POTENTIAL PROPONENT REGARDING THE MATTER.**

**4.0 SUBMISSION OF PROPOSALS**

4.1 Proponents should submit their Proposals on or before the time and date specified in the bottom row of the table in Section 2.1 above (the “**Closing Time**”).

4.2 Each Proponent should submit its Proposal in an envelope clearly marked with the Proponent’s name and the RFP title and number (“Development Partner for 1190 Burrard Street and 1210 Seymour Street and 177 West Pender Street; PSVAHA2017-05”) to the following address:

City of Vancouver  
Supply Chain Management  
4<sup>th</sup> Floor, Vancouver Housing Agency Hall  
453 West 12th Avenue  
Vancouver, British Columbia  
Canada, V5Y 1V4

Notwithstanding the foregoing, envelopes submitted by courier or otherwise in-person should be delivered to the drop box at:

Supply Chain Management  
4<sup>th</sup> Floor, Vancouver City Hall  
453 West 12th Avenue

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Vancouver, British Columbia  
Canada, V5Y 1V4

- 4.3 To be considered by the Housing Agency, a Proposal must be submitted in the form set out in Part C (the “**Form of Proposal**”), completed and duly executed by the relevant Proponent.
- 4.4 Amendments to a Proposal may be submitted via the same methods, at any time prior to the Closing Time.
- 4.5 Proposals must not be submitted by fax or email.
- 4.6 The Housing Agency requests that three hard copies and one electronic copy (on a flash drive, memory stick or similar medium) of each Proposal (or amendment) be submitted.
- 4.7 Proposals should not be bound in three-ring binders.
- 4.8 Proposals are revocable and may be withdrawn at any time before or after the Closing Time.
- 4.9 All costs associated with the preparation and submission of a Proposal, including any costs incurred by a Proponent after the Closing Time, will be borne solely by the Proponent.
- 4.10 Unnecessarily elaborate Proposals are discouraged. Proposals should be limited to the items specified in Part C of the RFP.
- 4.11 Proposals that are submitted after the Closing Time or that otherwise do not comply in full with the terms hereof may or may not be considered by the Housing Agency and may or may not be returned to the Proponent, in the Housing Agency’s sole discretion.

**5.0 CHANGES TO THE RFP AND FURTHER INFORMATION**

- 5.1 The Housing Agency may amend the RFP or make additions to it at any time.
- 5.2 It is the sole responsibility of Proponents to check the City of Vancouver Supply Chain Management website at: <http://bids.vancouver.ca/bidopp/openbid.htm> and the Housing Agency’s website at: [www.vaha.ca](http://www.vaha.ca) regularly for amendments, addenda, and questions and answers in relation to the RFP.
- 5.3 Proponents must not rely on any information purported to be given on behalf of the Housing Agency that contradicts the RFP, as amended or supplemented in accordance with the foregoing Section 5.2

**6.0 PROPOSED TERM OF LAND LEASE**

- 6.1 The term of any Agreement is expected to be for at least a 60-year period subject to a maximum of a 99-year period.

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**7.0 PRICING**

- 7.1 All prices quoted in any Proposal must be inclusive of any provincial sales tax payable by the Housing Agency under the *Provincial Sales Tax Act*, S.B.C.2012, c.35 (“**PST**”), but exclusive of any tax calculated upon such prices under the Excise Tax Act, R.S.C., 1985, c. E-15 (“**GST**”) or under any other sales tax legislation. GST and any such other sales tax (but not PST) should be described separately in each Proposal.
- 7.2 Prices must be quoted in Canadian currency and fixed prices must be quoted for the full term of the Proponent’s proposed agreement.

**8.0 EVALUATION OF PROPOSALS**

- 8.1 The City and Housing Agency may open or decline to open Proposals in such manner and at such times and places as are determined by the Housing Agency.
- 8.2 The Housing Agency currently intends that all Proposals submitted to it in accordance with the RFP will be evaluated by City and Housing Agency representatives, using quantitative and qualitative tools and assessments, as appropriate, to determine which Proposal or Proposals offer the overall best value to the Housing Agency. In so doing, the Housing Agency expects to examine not only financial terms, but also (i) Proponents’ skills, knowledge, reputations and previous experience(s), including experience(s) with the Housing Agency (if any); (ii) Proponents’ capabilities to meet the Housing Agency’s Requirements (as defined in Part B) as and when needed, (iii) quality and service factors, (iv) innovation, (v) environmental or social sustainability impacts; and (vi) transition costs or challenges. Certain other factors may be mentioned in Part B or elsewhere in the RFP.

8.3

<b>Evaluation Criteria</b>	<b>Evaluation Weighting</b>
Financials	15%
Affordability	25%
Design Considerations	15%
Operation Considerations	15%
Schedule Considerations	10%
Proponent & Consultant Profile	10%
Sustainability	10%
<b>TOTAL</b>	<b>100%</b>

- 8.4 The Housing Agency will retain complete control over the RFP process at all times until the execution and delivery of an Agreement or Agreements, if any. The Housing Agency is not legally

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obligated to review, consider or evaluate Proposals, or any particular Proposal, and need not necessarily review, consider or evaluate Proposals, or any particular Proposal in accordance with the procedures set out in the RFP. The Housing Agency may continue, interrupt, cease or modify its review, evaluation and negotiation process in respect of any or all Proposals at any time without further explanation or notification to any Proponents.

- 8.5 The Housing Agency may, at any time prior to signing an Agreement, discuss or negotiate changes to the scope of the RFP with any one or more of the Proponents without having any duty or obligation to advise the other Proponents or to allow the other Proponents to vary their Proposals as a result of such discussions or negotiations.
- 8.6 The Housing Agency may elect to short-list Proponents and evaluate Proposals in stages. Short-listed Proponents may be asked to provide additional information or details for clarification, including by attending interviews, making presentations, supplying samples, performing demonstrations, furnishing technical data or proposing amendments to the Form of Agreement. The Housing Agency will be at liberty to negotiate in parallel with one or more short-listed Proponents, or in sequence, or in any combination, and may at any time terminate any or all negotiations.
- 8.7 The Housing Agency may also require that any proposed subcontractors undergo evaluation by the Housing Agency.
- 8.8 For the avoidance of doubt, notwithstanding any other provision in the RFP, the Housing Agency has in its sole discretion, the unfettered right to: (a) accept any Proposal; (b) reject any Proposal; (c) reject all Proposals; (d) accept a Proposal which is not the lowest-price proposal; (e) accept a Proposal that deviates from the Requirements or the conditions specified in the RFP; (f) reject a Proposal even if it is the only Proposal received by the Housing Agency; (g) accept all or any part of a Proposal; (h) split the Requirements between one or more Proponents; and (i) enter into one or more agreements respecting the subject matter of the RFP with any entity or entities at any time. Without limiting the foregoing, the Housing Agency may reject any Proposal by a Proponent that has a conflict of interest, has engaged in collusion with another Proponent or has otherwise attempted to influence the outcome of the RFP other than through the submission of its Proposal.

**9.0 CITY AND HOUSING AGENCY POLICIES**

- 9.1 The Housing Agency follows the City of Vancouver's Procurement Policy, Ethical Purchasing Policy and related Supplier Code of Conduct found at [http://vancouver.ca/doing-business/selling-to-and-buying-from-the-Housing\\_Agency.aspx](http://vancouver.ca/doing-business/selling-to-and-buying-from-the-Housing_Agency.aspx) align the Housing Agency's approach to procurement with its corporate social, environmental and economic sustainability values and goals. They evidence the Housing Agency's commitment to maximize benefits to the environment and the community through product and service selection, and to ensure safe and healthy workplaces, where human and civil rights are respected. Each Proponent is expected to adhere to the supplier performance standards set forth in the Supplier Code of Conduct. The Ethical Purchasing Policy shall be referred to in the evaluation of Proposals, to the extent applicable.

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**10.0 CERTAIN APPLICABLE LEGISLATION**

- 10.1 Proponents should note that the City of Vancouver and the Housing Agency are subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the City and Housing Agency's consultants or contractors to protect all personal information acquired from the City and the Housing Agency in the course of providing any service to the City and the Housing Agency.
- 10.2 Proponents should note that the *Income Tax Act* (Canada) requires that certain payments to non-residents be subject to tax withholding. Proponents are responsible for informing themselves regarding the requirements of the *Income Tax Act* (Canada), including the requirements to qualify for any available exemptions from withholding.

**11.0 LEGAL TERMS AND CONDITIONS**

- 11.1 **The legal obligations of a Proponent that will arise upon the submission of its Proposal are stated in this Appendix 1 to the Form of Proposal. Except where expressly stated in these Legal Terms and Conditions: (i) no part of the RFP consists of an offer by the Housing Agency and the City to enter into any contractual relationship; and (ii) no part of the RFP is legally binding on the Housing Agency and the City.**

**POTENTIAL PROPONENTS MUST REVIEW THESE LEGAL TERMS AND CONDITIONS CAREFULLY BEFORE SUBMITTING A PROPOSAL.**

**12.0 ADDITIONAL INFORMATION – FTP Site**

- 12.1 Proponents may access additional information that has been provided by the Housing Agency on the City of Vancouver FTP site. Instructions are listed below:

To access the site, use your web browser and go to: <https://webtransfer.vancouver.ca/>

The user ID is: **PSVAHA2017-05DL@coveftp01**

The password is: **2AhXv7Hf** (The password is case sensitive.)

**PART B1 – HOUSING AGENCY REQUIREMENTS FOR 1190 BURRARD STREET**

**1.0 ALIGNMENT WITH THE CITY OF VANCOUVER’S CITYWIDE AND COMMUNITY POLICIES**

**1.1 Guiding Documents**

The Housing Agency’s mandate is to expedite the delivery of affordable housing options set out in the City’s Housing and Homelessness Strategy (2012-2021). The Housing and Homelessness Strategy outlines the overall strategic direction for housing, including how much is needed and how the City will enable delivery of the housing units. The Planning Brief, Infrastructure Requirements and supporting documents available via the FTP site provide the guidance for the proposed development.

The development objectives and requirements, as set by the Housing Agency, are detailed under Section 3.0.

**1.2 Policies and Links:**

For additional reference, relevant City-wide and area specific bylaws, policies, guidelines and related website links are provided below:

- Downtown Official Development Plan (1975)  
<http://bylaws.vancouver.ca/odp/dd.pdf>
- Downtown South Guidelines (1991)  
<http://guidelines.vancouver.ca/D007.pdf>
- Downtown South Goals and Policies (1991)  
<http://guidelines.vancouver.ca/D006.pdf>
- Potential "Benefit Capacity" in Downtown (Council direction – 2008)  
<http://council.vancouver.ca/documents/p2.pdf>
- Housing and Homelessness Strategy 2012-2021 (2011)  
<http://vancouver.ca/files/cov/Housing-and-Homeless-Strategy-2012-2021pdf.pdf>
- High-Density Housing For Families With Children Guidelines (1992)  
<http://former.vancouver.ca/commsvcs/guidelines/H004.pdf>
- City of Vancouver Housing Design and Technical Guidelines (2015)  
<http://vancouver.ca/files/cov/housing-design-and-technical-guidelines.pdf>
- Zero Emissions Building Plan (2016)  
<http://council.vancouver.ca/20160712/documents/rr2.pdf>
- Green Buildings Policy for Rezoning (2017)  
<http://guidelines.vancouver.ca/G015.pdf>
- Green Buildings Policy for Rezoning – Process and Requirements (2017)  
[http://bylaws.vancouver.ca/Bulletin/G002\\_2017April28.pdf](http://bylaws.vancouver.ca/Bulletin/G002_2017April28.pdf)

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**2.0 SITE INFORMATION: 1190 Burrard Street and 937 Davie Street**

**2.1 Site Overview:**



Figure 1: Aerial Site View

**Table 1: Property Information**

<b>Civic Address:</b>	1190 Burrard Street (and 937 Davie Street)
<b>PID &amp; Legal Descriptions:</b>	PID: 015-484-211, Lot A (See 428984L) of Lots 17 to 19 Block 90 District Lot 541 Plan 210; PID: 015-484-238, Lot B (Reference Plan 1606) of Lots 17 to 19 Block 90 District Lot 541 Plan 210; PID: 015-484-220, Lot C (See 428984L) of Lots 17 to 19 Block 90 District Lot 541 Plan 210; PID: 015-484-181, The South ½ of Lot 15 Block 90 District Lot 541 Plan 210; and PID: 015-484-203, Lot 16 Block 90 District Lot 541 Plan 210
<b>Lot Area:</b>	13,499 square feet
<b>Lot Size:</b>	Five legal lots comprising: Three lots of 40 feet/12.19 meters x 75 feet/22.86 meters One lot of 25 feet/7.62 meters x 120 feet/36.58 meters One lot of 12.5 feet/3.81 meters x 120 feet/36.58 meters
<b>Frontages:</b>	Frontage = Burrard Street (Burrard Street: 112.48 feet/34.28 meters; Davie St: 120 feet/36.58 meters)
<b>Zoning:</b>	DD (M): will require rezoning to CD-1
<b>Planning Division:</b>	Vancouver Downtown
<b>Neighbourhood:</b>	Downtown South neighbourhood (bordering West End)
<b>Site Description:</b>	Corner site located in Downtown South, on the northeast side of Burrard Street and Davie Street. The site has a rear lane and the site slope increases from south east to north west.

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<b>Current Use:</b>	One-storey and two-storey multi-tenanted commercial/residential buildings, with a surface pay parking lot, operated by Impark, and three billboards.
<b>Proposed Development:</b>	Sixteen-storey concrete building with a two-storey 24,000 square foot commercial/retail podium built to a building height of 156 feet (160 feet limit) with underground parking.
<b>Additional Considerations:</b>	The City of Vancouver is supporting QMUNITY, BC's Queer Resource Centre Society, to secure a portion of the commercial space within the subject development. Community Amenity Contribution ("CAC") funds have been allocated to QMUNITY for the construction cost of a two storey, 10,000 square foot net floor area, fully-fitted out community centre within a two storey commercial podium.

**2.2 Site Context:**

The subject property is located at the eastern corner of Burrard Street and Davie Street, within the "Downtown South" neighbourhood of Vancouver and directly adjacent to the West End neighbourhood. The Downtown neighbourhood is bounded by Burrard Inlet to the north, False Creek to the south, Strathcona to the east and the West End to the west. To the west of the site along Davie Street are predominantly one and two storey buildings. In contrast, the Downtown neighbourhood is comprised of mostly mid to high rise buildings. See Figures 1 and 2 for context.



**Figure 2: Downtown Neighbourhood**

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The surrounding area serves those working in, living in and visiting Vancouver and is subsequently a relatively mixed used in character, with mostly retail at grade and residential/office above. There are also multiple hotels located in close proximity to the area. The area is also characterised by medical and community focused services, including St Paul's Hospital and the Burrard Health Centre. Davie Village (west along Davie Street) has traditionally been a hub for the city's lesbian, gay, bisexual, transgender, and queer ("LGBTQ") community.

Both Burrard Street and Davie Street are busy, major thoroughfares for vehicular, bicycle and pedestrian traffic, with the Burrard Bridge three blocks to the south west. The site is also well served by transit, with multiple bus routes and bike share stations in close proximity, in addition to two Canada line stations under fifteen minutes walking distance.

2.3 Property Details:

The subject property is a paved, square site on the eastern corner of the Burrard and Davie Street intersection. The site comprises five contiguous lots, is approximately 13,486 square feet and has a lane running along the southeast boundary (please see Figure 3). The site is improved with a one storey building comprised of three Commercial Retail Units ("CRU"s) and a two-storey building with a CRU at grade and residential above; the buildings have a cumulative footprint of approximately 3,875 square feet (29% site coverage). The remainder of the site is used as public pay car parking (managed by Impark) comprising twenty-six (26) parking stalls.

The site fronts Burrard Street, a major four-lane thoroughfare with additional street parking and a cycle lane. Davie Street is also a major four-lane thoroughfare, but has no street parking or dedicated cycle lane. There are also drop curbs for vehicular access on both Davie Street and Burrard Street.

The site slopes upwards from south east to northwest and is serviced for all utilities, including hydro, water, storm and sanitary sewer, natural gas and telephone. The site has a low hedge wall separating it from the concrete sidewalk; with some hedging and small shrubs within the site. There are two street trees on Davie Street and one on Burrard Street.

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Figure 3: Site Location Plan

2.4 Zoning

The site is currently zoned DD (M)

Please refer to the City of Vancouver’s Zoning and Development Bylaw for complete details: For District schedule see: <http://bylaws.vancouver.ca/zoning/dd.pdfm>,

For Downtown ODP see: <http://bylaws.vancouver.ca/odp/dd.pdf>

The current zoning permits a maximum density of 5 FSR and a maximum height of up to 36.6 meters (120 feet) through extra density for social housing upon Development Permit Board approval. However, it is proposed that the site be rezoned to CD-1, under the Downtown South Potential "Benefit" Capacity in Downtown council direction, to achieve a higher density and a building height. For further details see section 3.4.

2.5 Current Use and Neighbouring Site Information:

The site is currently multi tenanted, with one-storey and two-storey commercial/residential buildings, a surface pay parking lot operated by Impark and three Pattison billboards for rent. Please see tables 2 and 3 below for tenant and neighbourhood information.

Table 2: Current Tenants

Address	Details
1188 Burrard Street	Impark – Parking lot
1192 Burrard Street	Cash Money – Payday loans shop
1192 Burrard Street	Residential
937 Davie Street	ABC Jewellery and Loan - Pawnbroker

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939 Davie Street	Pelle Hair & Esthetics - Hairdressers
941 Davie Street	Bin 941 - Restaurant

**Table 3: Current Neighbouring Sites**

Address	Location in relation to site and use
1160 Burrard Street	The adjacent property to the north-east is the nine-storey mixed-use Burrard Health Centre, with the “Pharmasave Health Centre” pharmacy at grade and commercial and strata residential units on the upper floors. This building has an underground parkade as well as surface parking at the rear, both of which are accessed via the rear lane.
1177 Hornby St.	The adjacent property to the South East is part of the “London Place” building, the section fronting Davie Street is a single storey mix of commercial units, with a two-storey restaurant unit on the corner of Hornby Street. To the rear of this is the main fourteen (14) storey “London Place” building, which comprises 143 condominium units.
1200 Burrard St.	Opposite the site, across Davie Street, is a ten-storey medical services office with “Toronto Dominion” bank and retail at grade.
1157 Burrard St.	Opposite the site, across Burrard Street, is the 21,646 square foot Davie Village community garden. This site, owned by “Prima Properties”, was once a “Shell” gas station and is likely to be developed in the near future.
1200 Burrard St.	On the western corner of Burrard and Davie is an “Esso” gas station.

**2.6 Environmental Conditions**

Environmental investigations have been conducted on the subject property to assess for contamination related to on-site and off-site areas of environmental concern including dry cleaners and a service station. No contamination was identified on site but site access was limited by the presence of buildings and so cannot be ruled out. Due to the activities on the subject property and neighbouring properties, additional environmental assessment is required prior to issuance of rezoning, development, and occupancy permits. If contamination is identified during site redevelopment, remediation will be required prior to building occupancy. All costs associated with environmental remediation must be approved by the City.

**2.7 Hazardous Materials**

Due to the presence of existing buildings on site, a pre-demolition hazardous materials survey will be required by the Proponent to assess for the presence of hazardous materials and establish a scope of work for any necessary abatement. This survey must be conducted by one of the City’s prequalified hazardous materials consultants, and a copy of the survey report must be provided to the City for our records.

The survey and scope of work must be prepared by the same hazardous materials consultant who conducts the survey and included in the deconstruction tender. One of the City’s

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prequalified hazardous materials abatement contractors must be retained for the abatement portion of the works. The successful Proponent will be expected to arrange for the required permits, the procurement of the services for hazardous materials abatement and the green demolition of the buildings. The Housing Agency will then reimburse the Proponent for the work to assess and remove any hazardous materials from the site upon submission of receipts.

All survey and abatement work should be carried out by consultants that have been pre-qualified by the City and a list of these approved consultants and contractors is available on the FTP site.

All costs associated with hazardous materials assessment and removal must be approved by the City. The anticipated cost for the hazardous materials survey is approximately \$5,500 to \$8,500 for the site.

### **3.0 DEVELOPMENT PROPOSAL: 1190 Burrard Street and 937 Davie Street**

#### **3.1 Proposal Objectives and Standards**

The development objectives for the subject property are to develop a high quality mixed-use affordable residential and commercial project. The project should comprise affordable rental units for a range of households that maximize both the number of units and affordability levels, and a two-storey commercial retail unit (“CRU”) space. At present, it is anticipated that part of the CRU space will be tenanted by QMUNITY, a non-profit organization that works to improve queer, transgender, and “Two-Spirit” lives. The successful Proponent will lease the QMUNITY space back to the City of Vancouver at a nominal rent and the City shall sub-sublease the space to QMUNITY at a nominal rent. The successful Proponent will be compensated for the construction cost of the shell space and tenant improvements on a cost recovery basis to a total of 7 million dollars to be paid from designated Community Amenity Contributions.

The Project should be designed and constructed to the following objectives and standards, as detailed under this section and in the supporting documents available on the FTP site:

- i) Maximize affordability and number of housing units;
- ii) Respond to all City Planning, Urban Design and Engineering bylaws, policies and guidelines or provide a robust design rationale to justify any requests for relaxations to requirements. The Proposal should not exceed the 160 feet height limit and all parts of the development, including stairs, screen walls, mechanical rooms, elevator overruns, among other items, must be located below this height;
- iii) Provide an appropriate mix of studio, one bedroom and family units;
- iv) Provide a minimum of five percent (5%) of all units as fully wheelchair accessible with 100% of units as adaptable to changing needs over time;
- v) Lead the market transformation towards Passive House and Zero Emissions standards and design by creating cost-effective built examples; and

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- vi) Address any community concerns through comprehensive and sensitive community engagement activities.

### 3.2 Proposal Details

Proposals should include the information as detailed below together with a completed electronic template proforma as provided in the FTP site.

#### 3.2.1 Financials

- i) Please also refer to Sections 4.0 and 5.0 when completing this section of the Proposal.
- ii) Prepaid land lease - indicate (using the electronic template proforma provided in the FTP site) the amount of prepaid land lease, if any, that the Proponent will pay to the City for the lease.
- iii) Development costs – Please provide hard and soft costs, contingency, and other relevant development costs information using the electronic template proforma provided in the FTP site.
- iv) Funding and financing details – describe financing assumptions during the development phase and after the project is completed including but not limited to the loan quantum, the term of the loan, and all financing costs e.g., interest rates, projected equity gap (or proposed equity contribution where there is minimal or no equity gap) using the electronic template proforma provided in the FTP site. For the avoidance of doubt, financing will not be provided by the City of Vancouver or the Housing Agency.
- v) Cashflow – provide a cashflow for Project covering the first thirty five (35) years of operation (please provide a copy of the cashflow electronically in a Microsoft Excel format).

Where applicable, please confirm the Proponent's agreement to (i) the cost of reimbursing the Housing Agency for such development work already carried out, and (ii) the amount of fees payable to the Housing Agency.

#### 3.2.2 Affordability

- i) Please also refer to Section 3.6 when completing this section of the Proposal.
- ii) Revenue model – provide (using the electronic template proforma provided in the FTP site) all relevant information including the number of units proposed to be let at market (if any) and below-market.
- iii) Operating cost model – provide (using the electronic template proforma provided in the FTP site) all relevant information including the projected operating costs and planned replacement reserves.

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Note: where the Proponent intends to submit a proposal involving more than one site, the Proponent may be able to deliver a deeper affordability in aggregate for these sites because of various reasons including economies of scale, risk perception and returns expectation. If this is applicable, the Proponent is advised to provide all other additional relevant information including the affordability information on such a consolidated basis to strengthen its proposal.

3.2.3 Design Considerations

- i) Project plan and design considerations – provide (using the electronic template proforma provided in the FTP site, where applicable, and separately) the massing plan, form of construction, gross floor area, number and type of units, unit size, CRU space provision (where applicable), efficiency assumptions, and parking area. Each proposal must include a statement affirming conformity with City Planning, Urban Design and Engineering bylaws, policies and guidelines, and provide detailed justifications for any proposed variances. Each proposal must contain a comprehensive design rationale for all relevant aspects, including the number of units, the choice of materials proposed as well as any design responses to deepen affordability by lowering capital costs and/or operating costs, and optimize sustainability and green lifestyles.

3.2.4 Operational Considerations

- i) Tenant management strategy – describe the tenant selection process, tenant settlement process, tenant participation strategy, rent control strategy, and replacement tenant strategy.
- ii) Property management plan – describe the proposed property management plan to be used for the operation of the building upon completion and tenancy including, where possible, an outline of processes tools or methods to be used by your organization to ensure the property budget goals are tracked and met over time.
- iii) Capital replacement strategy and maintenance plan – describe this plan and details of intended approach for implementation.
- iv) Operation or asset management experience – identify the operator and describe its capability and experience in operating and managing residential and mixed use development.

3.2.5 Schedule Considerations

- i) Development schedule – provide a summary of the proposed development, construction, and occupancy schedule (using the electronic template proforma provided in the FTP site) accompanied with detailed description of any strategy to expedite delivery of the project. Please also indicate your capacity to undertake this project given your available resources and outstanding commitments.

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3.2.6 Proponent & Consultant Profile

- i) Proponent profile and hierarchy – describe the organizational framework, including number of staff, office location and Proponent’s team structure and roles. Identify and profile all consultants and other parties that will be involved in the Proposal including all members of the design and construction team. Please provide an organizational chart for this section.
- ii) Property development experience – describe the Proponent’s and Proponent’s team’s capability and experience in multi-family developments, and where appropriate, in mixed-use real estate development. Please describe proposed construction methods, history of delivering projects within the City of Vancouver and past instances of community engagement within the City of Vancouver.
- iii) Financial profile –provide the most recent three year audited financial statements from all entities that form the Proponent’s team.
- iv) Affiliations - describe any affiliations and history with mission-based organizations or organization with affordable housing objectives. Please provide written testimonials for these affiliations.
- v) Social engagement – describe the support, outreach and training opportunities that would be provided for people on low incomes, local businesses, and local labour.

3.2.7 Sustainability

Please refer to Section 3.11 & 3.12 below.

3.3 Form of Development

The form of development should fit within the City Planning, Urban Design and Engineering parameters of the site, including adhering to all set-back and step-back requirements. However, Proponents are encouraged to be innovative and creative in coming up with a project which is economically feasible and delivers maximum affordability, unit yields, and amenity space.

The initial design concept derived by the Housing Agency is a sixteen-storey (156 feet) concrete building, with a two-storey commercial/retail podium, 118 dwelling units above, and an underground parkade. Particulars include but are not limited to:

- Underground parking;
- Two storey CRU podium;
- 10,000 square foot (net), fully accessible, partner space for QMUNITY as part of the two-storey CRU podium, encompassing a significant portion of the ground floor in order to establish a street presence;
- Density to be determined by form of development performance;

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- Residential unit mix to include studio, 1 Bedroom 2 Bedroom and 3 Bedroom units;
- Minimum of thirty five percent (35%) family units;
- Appropriate amounts of indoor and outdoor amenity space;
- Minimum of five percent (5%) accessible units;
- Low Emissions Green Building pathway of the Green Buildings Policy for Rezoning at a minimum, with Passive House Certified as the optimum target;
- Minimize indoor air contaminants through the use of low Volatile Organic Compound (“VOC”) materials; and
- Connectable to proposed Downtown South Neighbourhood Energy Utility system.

The Proposal should respond to the site’s relationship to its surrounding context. It is anticipated that proposals received through this RFP will vary from this concept in order to optimize the development objectives, while carefully considering City Planning and Urban Design performance. Proponents are directed to review the guidance documents on the FTP site, including the subject property title documents and relevant charges on title which could impact the potential building design.

### 3.4 Rezoning

As stated under section 2.4, the current DD (M) zoning permits a maximum density of 5 FSR and a maximum height of 120 feet. It is anticipated that the subject property will require a rezoning application prior to a development permit in order to maximize the density and height that a development proposal may achieve.

Through Rezoning from DD to CD-1, it is estimated that a development proposal may achieve a building height of up to 160 feet (view cone limit) and additional density as per the following:

Downtown South *Potential "Benefit" Capacity in Downtown* council direction:  
DOPD Areas L1, L2, M, N;

*“Potential additional residential: 1,707,000 square feet, up to the height limits imposed by the approved view corridors.”*

The form of development performance will establish the exact allowable and appropriate density, estimated at 7.5-7.91 FSR.

### 3.5 Unit Mix

The Housing Agency anticipates that at least thirty five percent (35%) of the units will be targeted as family units (two and three bedroom units). The exact number of units and unit mix

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will be finalized through the development process but preliminary estimates by the Housing Agency indicate that 118 units may be possible with a unit mix as follows:

**Table 4: Unit Mix**

Unit Type	Number of Units	% of Units	Minimum unit size (square feet) excluding storage
Studio units	35	30%	320
1 Bedroom units	41	35%	500
2 Bedroom units	30	25%	700
3 Bedroom units	12	10%	900
<b>Total</b>	<b>118</b>	100%	

3.6 Minimum and Target Affordability

As minimum eligibility criteria the following affordability requirements must be met or exceeded. The minimum affordability for this project is for the residential units to be rented such that (a) “Gross Achievable Income” be at 90% or less than “Potential Gross Income”, and (b) at least 20% of the units have rents that represents no more than 30% of the “Household Median Income” for Vancouver. An explanation of the terms is below:

- “Gross Achievable Income” means the total annual income from all residential units in the Property, based on the rent proposed for each unit in the Proposal;
- “Potential Gross Income” means the total annual income from all residential units in the Property, based on the market rent for each unit, as estimated by the Proponent or as determined by the Housing Agency, whichever is lower; and
- “Household Median Income” refers to the information on median total income, by family type, by the census metropolitan area (all census families) as reported by Statistics Canada. Unless modified by Statistics Canada, the information can be found at the link below. The latest reported annual “Household Median” Income for Vancouver is \$76,040; therefore 30% of the “Household Median Income” is \$22,812 a year or \$1,901 a month.

The minimum affordability eligibility requirements are based on the requirements of the CMHC Rental Construction Financing Initiative.

See: <https://www.cmhc-schl.gc.ca/en/hoficlincl/moloin/mupr/rental-construction-financing.cfm>

There may be an opportunity for the selected Proponent to make an application to CMHC for construction financing through this initiative.

3.7 Accessible Units

Access or accessible can be defined as a person with disabilities is able without assistance to approach, enter, pass to and from, and make use of an area and its facilities. In addition to the requirements set out in Section 3.8 of Division B of the Vancouver Building By-law, five percent (5%) of all units must be fully wheelchair accessible. Depending on a need and demand analysis, the number may increase to accommodate more wheelchair accessible units in the project and it is assumed that all units in the Proposal will be adaptable.

The Proponent may propose a design which encompasses a higher number of accessible units in order to access funding sources. As an example of this the CMHC requires ten percent (10%) of all units to be accessible in order to qualify for their Rental Construction Financing initiative. For more information regarding CMHC requirements, please refer to the FTP site.

3.8 Amenities on Site

Amenity space will be determined through the development process, and will include consideration of amenity space for tenant's as well as proposed uses of the non-residential components of the building (e.g. the two-storey commercial space). The Proposal should include appropriate amounts of indoor and outdoor amenity space.

3.9 Partner Space ("QMUNITY")

The City of Vancouver will work with the selected Proponent to design and build a new resource centre facility in the development for the non-profit organization "QMUNITY". Please note that QMUNITY will not be a direct party to any future construction contract but the space will be as per QMUNITY's specifications within the guidelines set up by the City. Funding for this facility will be provided from \$7 Million in CAC funds. QMUNITY describe their direction as follows:

*"QMUNITY is a non-profit organization based in Vancouver, BC that works to improve queer, trans, and Two-Spirit lives. We provide a safer space for LGBTQ/2S people and their allies to fully self-express while feeling welcome and included. Our building serves as a catalyst for community initiatives and collective strength.*

*QMUNITY engages in this work through three key pillars, which include support, connection, and leadership:*

- We empower queer, trans, and Two-Spirit individuals to be their best selves by providing free counselling services to those in need, connect individuals with appropriate supports, services and resources through information and referrals, provide youth access to gender-affirming chestwear, and provide youth with one-on-one support.*
- We strengthen our LGBTQ/2S communities to be inclusive, connected, and resilient through peer-facilitated support and social groups,*

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*hosting special events, and supporting volunteer and practicum opportunities for members of our broader communities to engage with.*

- *We lead the way towards legal and lived equality in our society through Queer Competency workshops, developing and disseminating educational resources, and through advisory and consulting services.”*

The Housing Agency and the City have been in communication with QMUNITY regarding the expectations surrounding the development of the resource centre facility. QMUNITY are currently developing a functional program that will inform the design and configuration of the space, and which will be made available on the FTP site once completed. At this stage, the Proponent should allow for a net 10,000 square foot shell space for QMUNITY in their designs; however, it is anticipated that this space will be delivered “turnkey” with the funds already provided which will cover all construction, management fees, fixtures, fittings, designated parking stalls, and other associated costs. There will be no further funding for capital costs listed above from either QMUNITY, the City of Vancouver, or the Housing Agency as such it will be important for continuous dialogue with the City during the planning, design and construction stages to ensure the space is completed within budget. A breakdown of anticipated costs for this space should be included as part of the Proponent’s Proposal.

The detailed design of the space will be developed in conjunction with the City, who will consult with QMUNITY in order to ensure that the space meets the needs of QMUNITY. However, the following should be considered as part of the initial shell space:

- It is anticipated that QMUNITY will occupy a 10,000 square foot (net), fully accessible space in the two storey commercial/ retail podium, encompassing a significant portion of the ground floor in order to establish a street presence;
- The QMUNITY space should be separate from the housing component and have its own entrance and elevator. This is needed for safety and privacy reasons; and
- As a not-for-profit community based organization that provides services in the community, QMUNITY has advised that they do not need more than six parking spots total, two accessible spaces and four typically sized spaces. However, Proponents are directed to the City of Vancouver Parking Bylaw department to confirm the parking requirements.

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QMUNITY have provided the following points that they would like to be considered in relation to the selection of a housing operator for the building. Proponents are requested to address these items in their Proposal:

- QMUNITY is looking to co-locate with an experienced housing operator who has a deep-rooted, respectful, and comprehensive understanding of lesbian, gay, bisexual, trans, queer, and Two-Spirit (LGBTQ/2S) community members that are queer and trans competent, and have:
  - A thorough awareness of and the wherewithal to implement what is involved in providing housing to seniors and families living with HIV/AIDS; and
  - A comprehensive understanding of what it means to facilitate safer spaces for marginalized community members.

The successful Proponent shall lease the QMUNITY space back to the City of Vancouver at a nominal rent and the City shall sub-sublease the space to QMUNITY at a nominal rent for a 60 year term, or such other period so as to be co-terminus with the Land Lease. QMUNITY will be responsible for their proportionate share of the operating costs, including but not limited to property taxes (if applicable), utilities, maintenance, among other items as outlined in a future lease term sheet to form the future lease agreement.

3.10 Non-Residential Space (Commercial)

The two storey commercial podium should be designed to maximize commercial space and revenues, to help subsidize and or deepen the affordability of the housing units. The 10,000 square foot partner space for QMUNITY will form part of this podium as described above under section 3.9.

3.11 Minimum and Target Sustainability Standards

As noted above in 3.3, the minimum eligibility criteria of Low Emissions Green Building standards, as per the Green Buildings Policy for Rezoning, must be met or exceeded.

The Housing Agency is seeking to deepen sustainability levels beyond the minimum requirements set out above. Therefore, the Agency would ideally like this project to improve building energy performance by adopting elements of the Near Zero Emissions Building policy, with Passive House or an Alternative Zero Emissions standard as the optimum target as per the Zero Emissions Building Plan. Proponent responses will be measured and evaluated against the energy improvements proposed above the minimum requirements, and as follows:

The highest scoring for Sustainability will be given to responses that include Passive House certification. The next highest scoring will be given to responses that include Passive House Low Energy certification, including the use of Passive House Planning Package (“PHPP”) and Passive

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House certified components for windows, doors, Heat Recovery Ventilation (“HRV”), etc. Less scoring will be given to responses meeting the requirements of the Green Building Policy for Rezoning.

3.12 Neighbourhood Energy Utility (“NEU”) Connection

NEU connectability may be required due to the location of the site within the proposed South Downtown NEU area.

3.13 Community Engagement

The successful Proponent will be expected to develop and execute a community engagement strategy with stakeholders, including local businesses, community organizations, and residents, and provide a summary report analyzing the findings. The report will form part of the rezoning and/or development application package(s).

Proponents are required to demonstrate competency in a variety of community engagement activities and clearly illustrate both understanding and/or experience in the challenges of discussing affordable housing through public consultation.

**4.0 COSTS**

4.1 Capital Requirements

The Proponent will ascertain the Development Cost and formulate their funding and financing strategy accordingly.

For 1190 Burrard Street, the Proponent will ascertain the total cost of providing the required space for QMUNITY based on the specifications provided by the City and the City will reimburse the Proponent for this cost.

The Housing Agency will assess these costs estimates and proposed funding strategy for their reasonableness and viability.

Consequently, the Proponent is encouraged to provide in detail the basis of their estimates where it pertains to (a) construction costs such as hard costs and soft costs; (b) terms of interim financing including construction loan interest rate, (c) take-out financing including anticipated size of proposed mortgage, tenure, interest rate and minimum debt coverage ratio requirement, as well as (d) amount of equity financing.

**5.0 EQUITY CONTRIBUTION**

5.1 Equity Requirements

Where necessary, the Proponent is expected to contribute equity to meet any capital requirements beyond available debt financing. However, where the required equity contribution is minimal or non-existent, the Proponent will also be assessed by the size of their proposed equity contribution towards reducing the liquidity risk of the project or to deepening the affordability of the units.

## **PART B2 – HOUSING AGENCY REQUIREMENTS FOR 1210 SEYMOUR STREET**

### **1.0 ALIGNMENT WITH THE CITY OF VANCOUVER’S CITYWIDE AND COMMUNITY POLICIES**

#### **1.1 Guiding Documents**

The Housing Agency’s mandate is to expedite the delivery of affordable housing options set out in the City’s Housing and Homelessness Strategy (2012-2021). The Housing and Homelessness Strategy outlines the overall strategic direction for housing, including how much is needed and how the City will enable delivery of the housing units. The Planning Brief, Infrastructure Requirements and supporting documents are available via the FTP site provide the guidance for the proposed development.

#### **1.2 Policies and Links:**

For additional reference, relevant City-wide and area specific bylaws, policies, guidelines and related website links are provided below:

- Downtown Official Development Plan (1975)  
<http://bylaws.vancouver.ca/odp/dd.pdf>
- Downtown South Guidelines - excluding Granville Street  
<http://guidelines.vancouver.ca/D007.pdf>
- Downtown South Goals and Policies (1991)  
<http://guidelines.vancouver.ca/D006.pdf>
- Housing Technical and Design Guidelines (2015)  
<http://vancouver.ca/files/cov/housing-design-and-technical-guidelines.pdf>
- High-Density Housing for Families with Children Guidelines (1992)  
<http://guidelines.vancouver.ca/H004.pdf>
- Zero Emissions Building Plan (2016)  
<http://council.vancouver.ca/20160712/documents/rr2.pdf>
- Green Buildings Policy for Rezoning (2017)  
<http://guidelines.vancouver.ca/G015.pdf>
- Green Buildings Policy for Rezoning – Process and Requirements (2017)  
[http://bylaws.vancouver.ca/Bulletin/G002\\_2017April28.pdf](http://bylaws.vancouver.ca/Bulletin/G002_2017April28.pdf)

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**2.0 SITE INFORMATION: 1210 Seymour Street and 560 Davie Street**

**2.1 Site Overview:**

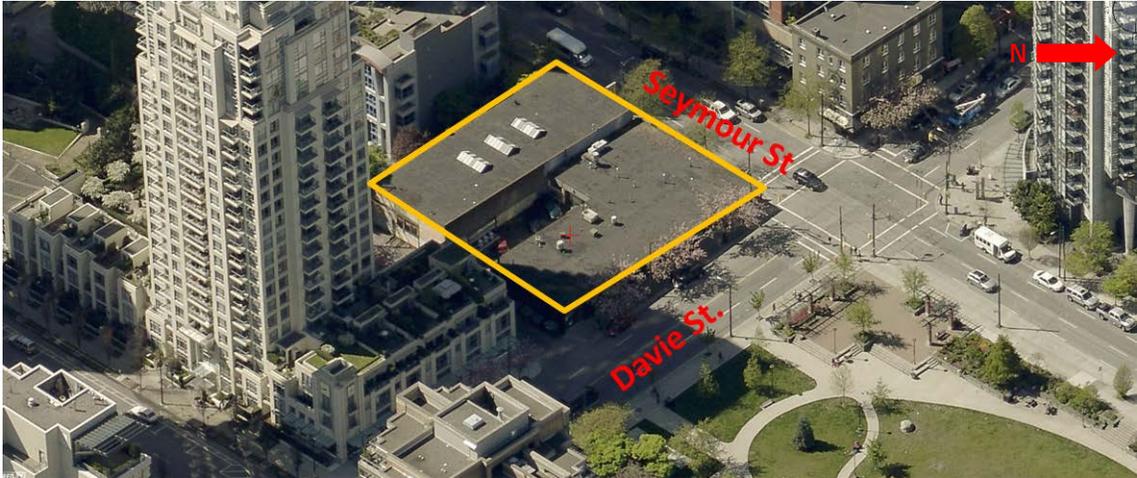


Figure 1: Aerial Site View

**Table 1: Property Information**

<b>Civic Address:</b>	1210 Seymour Street and 560 Davie Street
<b>PID &amp; Legal Descriptions:</b>	PID: 015-474-399: Lot 5 Block 104 District Lot 541 Plan 210; PID: 015-473-953: Lot 4 Block 104 District Lot 541 Plan 210; PID: 006-169-571: Lot 3 Block 104 District Lot 541 Plan 210; PID: 015-473-929: Lot 2 Block 104 District Lot 541 Plan 210; and PID: 015-473-881: Lot 1 Block 104 District Lot 541 Plan 210
<b>Lot Area:</b>	14,995 square feet
<b>Lot Size:</b>	Five legal lots, each 25 feet/7.62 meters (width) x 120 feet /36.58 meters (depth)
<b>Frontages:</b>	Frontage = Davie Street (Seymour St: 126.5 feet /38.56 meters; Davie St: 119 feet /36.30 meters)
<b>Zoning:</b>	DD (L1)
<b>Planning Division:</b>	Vancouver Downtown
<b>Neighbourhood:</b>	Downtown South neighbourhood
<b>Site Description:</b>	Square, corner site located in Downtown South, on the south-east corner of the Seymour Street and Davie Street intersection. Gentle slope, with rear lane access from Davie Street, opposite Emery Barnes Park.
<b>Current Use:</b>	The site is improved with two one-storey multi-tenanted commercial/retail buildings.
<b>Proposed Development:</b>	11-storey concrete mixed-use building with a single storey commercial/retail podium at grade, residential apartment units above and underground parking; approximate height of 94.5 feet and 5 FSR.

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2.2 Site Context:

The subject property is located at the south-east corner of Seymour Street and Davie Street intersection, within the Downtown South neighbourhood of Vancouver. The Downtown neighbourhood is bounded by Burrard Inlet to the north, False Creek to the south, Strathcona to the east and the West End to the west. See Figures 1 and 2 for context.



*Figure 2: Downtown Neighbourhood*

The site is situated in “New Yaletown”, one of the most densely populated neighbourhoods in the City, built up with high-rise apartment blocks and converted heritage buildings. The neighbourhood offers a variety of restaurants and boutique shops and is one of the City’s most active neighbourhoods, filled with sidewalk cafes, parks, offices, and residential loft spaces. The surrounding area has generous areas set aside for the public realm with provisions of parks, community centres, schools, and waterfront areas. To the northeast of the site, across Davie Street, is Emery Barnes Park

The neighbourhood is very walkable and also has easy access to major arterial routes and thoroughfares, with Seymour Street connecting directly to Granville Bridge. The site is also well served by transit with the Yaletown-Roundhouse Sky Train station and bus stops for at least ten different transit routes located within a five minute walk from the subject site.

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2.3 Property Details:

The subject property is a square site, comprising of five contiguous lots with a total site size of approximately 15,000 square feet (see Figure 3 below). The development site is improved with two single storey multi-tenanted commercial/ retail buildings, which form a “U” shape, with a surface parking lot in the remainder space, accessed via the rear lane.

The site fronts Davie Street, a major two-way thoroughfare, with on-street metered parking on the side of the subject site. Seymour Street is a one-way northbound arterial with on-street metered parking on both sides. The site gently slopes upwards from south to north and is serviced for all utilities, including hydro, water, storm and sanitary sewer, natural gas and telephone. The site has a concrete sidewalk, curb and gutters, as well as a street boulevard with trees. There is also a drop curb in front of 1210 Seymour Street, which previously provided access to a Japanese Auto Centre.

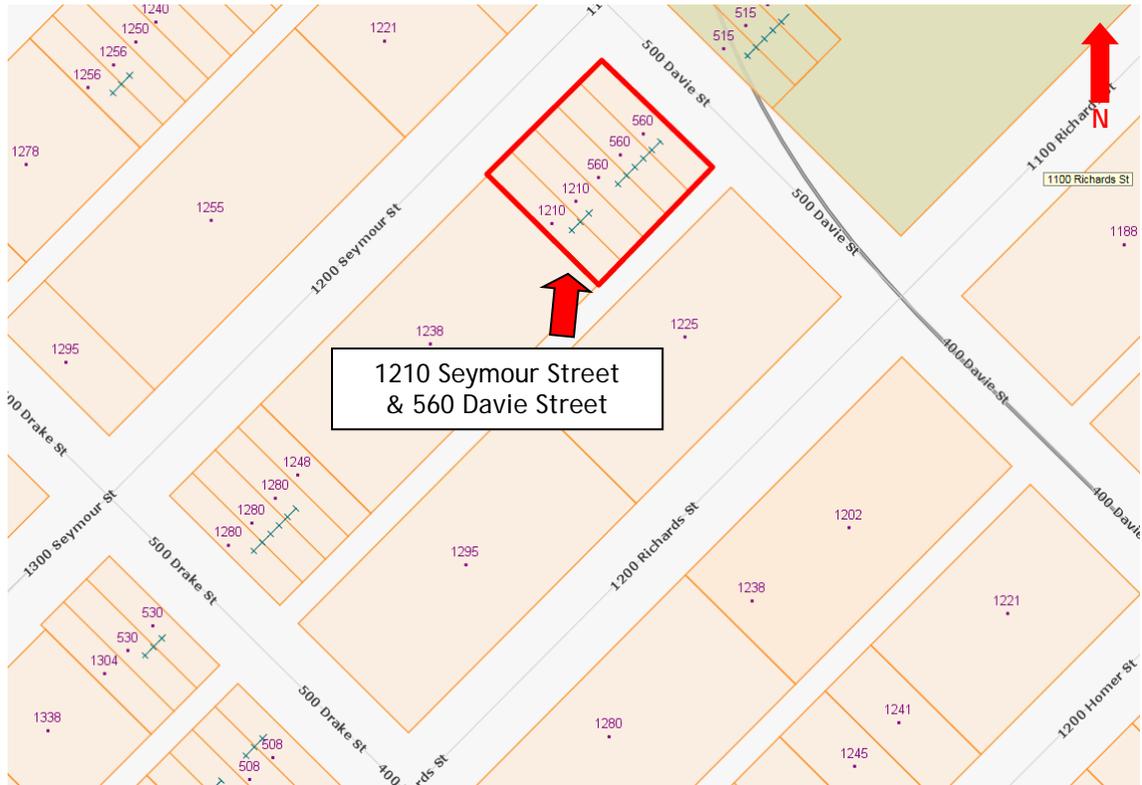


Figure 3: Site location plan

2.4 Zoning

The site is currently zoned as DD (L1); please refer to the City of Vancouver’s Zoning and Development Bylaw for complete details:

For District schedule, see: <http://bylaws.vancouver.ca/zoning/dd.pdf>

For Downtown ODP, see: <http://bylaws.vancouver.ca/odp/dd.pdf>

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The Housing Agency anticipates developing this property through the Development Permit process under the existing DD zoning. The maximum parameters for a social housing development in this location are a height of 120 feet and density of 5 FSR. However, due to the shadowing impact on Emery Barnes Park, a height of approximately 94.5 feet has been modelled and is considered more achievable.

2.5 Current Use and Neighbouring Site Information:

The site is multi-tenanted at present, but will be vacant at time of possession. Please see tables 2 and 3 below for current use and neighbourhood information.

**Table 2: Current Neighbouring Sites**

Address	Details
560 Davie Street	The Elbow Room Café
570 Davie Street	All 4 One Barbershop
572 Davie Street	Juno Vancouver Sushi Bistro (recently closed)
586 Davie Street	What's Shaken Milkshake Bar Inc. (recently closed)
594 Davie Street	Royal Vape Inc.

**Table 3: Neighbourhood Sites**

Address	Location in Relation to Site and Use
1199 Seymour Street	North of the site is a 26 and 32-storey cultural/ commercial/ residential development containing four retail stores, theatre, and meeting room for the Vancouver International Film Centre ("VIFC"), and five townhouses on the first floor, general office/projection booth, and residential on the second floor, general offices and residential on the third floor, and residential on the upper floors, for a total of 417 dwelling units with five levels of underground parking.
1169 Richards Street	Northeast of the site is the Emery Barnes park.
1225 Richards Street	Across the lane to the southeast of the site is a 25 storey, stratified, residential tower with 168 dwelling units and an eight (8) townhouses complex, with retail at grade.
1238 Seymour Street	Southwest of the site is a 20-storey, concrete residential building, known as "The Space", with 211 dwelling units and two levels of underground parking and one level of underground bicycle storage.
1203 Seymour Street	Northwest of the site is a four-storey, mixed-use building with ground floor commercial and residential units above at the corner.
1221 Seymour Street	West of the site is a 12-storey non-market housing development containing 136 units on the third-twelfth floor, and a social service center on the lower two floors with one level of underground parking.

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2.6 Environmental Conditions

Environmental investigations have been conducted on the Subject Property to assess for contamination related to on-site areas of environmental concern, including a former underground storage tank, fill material, and a former welding shop. Petroleum hydrocarbon and metals contamination was identified in soil. Petroleum hydrocarbons have been delineated but metals have not. Additional environmental assessment is required prior to issuance of the development permit and remediation will be required prior to issuance of the occupancy permit. . All costs associated with environmental remediation must be approved by the City.

2.7 Hazardous Materials

Due to the presence of existing buildings on site, a pre-demolition hazardous materials survey will be required by the Proponent to assess for the presence of hazardous materials and establish a scope of work for any necessary abatement. This survey must be conducted by one of the City's prequalified hazardous materials consultants, and a copy of the survey report must be provided to the City for our records.

The survey and scope of work must be prepared by the same hazardous materials consultant who conducts the survey and included in the deconstruction tender. One of the City's prequalified hazardous materials abatement contractors must be retained for the abatement portion of the works. The successful Proponent will be expected to arrange for the required permits, the procurement of the services for hazardous materials abatement and the green demolition of the buildings. The Housing Agency will then reimburse the Proponent for the work to assess and remove any hazardous materials from the site upon submission of receipts.

All survey and abatement work should be carried out by consultants that have been pre-qualified by the City and a list of these approved consultants and contractors is available on the FTP site.

All costs associated with hazardous materials assessment and removal must be approved by the City. The anticipated cost for the hazardous materials survey is approximately \$4,000 to \$7,000 for the site.

**3.0 DEVELOPMENT PROPOSAL: 1210 Seymour Street & 560 Davie Street**

3.1 Proposal Objectives and Standards

The development objectives for the subject property are to develop a high quality mixed-use affordable residential and commercial project. The project should comprise affordable rental units for a range of households that maximize both the number of units and affordability levels, and a single storey Commercial Retail Unit ("CRU") space.

The Project should be designed and constructed to the following objectives and standards, as detailed under this section and in the supporting documents available on the FTP site:

- i) Maximize affordability and number of housing units;

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- ii) Respond to all City of Vancouver Planning, Urban Design and Engineering bylaws, policies and guidelines or provide a robust design rationale to justify any requests for relaxations to requirements;
- iii) Provide an appropriate mix of studio, one bedroom and family units;
- iv) Provide a minimum of five percent (5%) of all units as fully wheelchair accessible with 100% of units as adaptable to changing needs over time;
- v) Lead the market transformation towards Passive House and Zero Emissions standards and design by creating cost-effective built examples; and
- vi) Address any community concerns through comprehensive and sensitive engagement activities.

### 3.2 Proposal Details

Proposals should include the information as detailed below together with a completed electronic template proforma as provided in the FTP site.

#### 3.2.1 Financials

- i) Please also refer to Sections 4.0 and 5.0 when completing this section of the Proposal.
- ii) Prepaid land lease - indicate (using the electronic template proforma provided in the FTP site) the amount of prepaid land lease, if any, that the Proponent will pay to the City for the lease.
- iii) Development costs – Please provide hard and soft costs, contingency, and other relevant development costs information using the electronic template proforma provided in the FTP site.
- iv) Funding and financing details – describe financing assumptions during the development phase and after the project is completed including but not limited to the loan quantum, the term of the loan, and all financing costs e.g., interest rates, projected equity gap (or proposed equity contribution where there is minimal or no equity gap) using the electronic template proforma provided in the FTP site. For the avoidance of doubt, financing will not be provided by the City of Vancouver or the Housing Agency.
- i) Cashflow – provide a cashflow for Project covering the first thirty five years (35) of operation (please provide a copy of the cashflow electronically in a Microsoft Excel format).

Where applicable, please confirm the Proponent's agreement to (i) the cost of reimbursing the Housing Agency for such development work already carried out, and (ii) the amount of fees payable to the Housing Agency.

#### 3.2.2 Affordability

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- i) Please also refer to Section 3.6 when completing this section of the Proposal.
- ii) Revenue model – provide (using the electronic template proforma provided in the FTP site) all relevant information including the number of units proposed to be let at market (if any) and below-market.
- iii) Operating cost model – provide (using the electronic template proforma provided in the FTP site) all relevant information including the projected operating costs and planned replacement reserves.

Note: where the Proponent intends to submit a proposal involving more than one site, the Proponent may be able to deliver a deeper affordability in aggregate for these sites because of various reasons including economies of scale, risk perception and returns expectation. If this is applicable, the Proponent is advised to provide all other additional relevant information including the affordability information on such a consolidated basis to strengthen its proposal.

### 3.2.3 Design Considerations

- i) Project plan and design considerations – provide (using the electronic template proforma provided in the FTP site, where applicable, and separately) the massing plan, form of construction, gross floor area, number and type of units, unit size, CRU space provision (where applicable), efficiency assumptions, and parking area. Each proposal must include a statement affirming conformity with City Planning, Urban Design and Engineering bylaws, policies and guidelines, and provide detailed justifications for any proposed variances. Each proposal must contain a comprehensive design rationale for all relevant aspects, including the number of units, the choice of materials proposed as well as any design responses to deepen affordability by lowering capital costs and/or operating costs, and optimize sustainability and green lifestyles.

### 3.2.4 Operational Considerations

- i) Tenant management strategy – describe the tenant selection process, tenant settlement process, tenant participation strategy, rent control strategy, and replacement tenant strategy.
- ii) Property management plan – describe the proposed property management plan to be used for the operation of the building upon completion and tenancy including, where possible, an outline of processes tools or methods to be used by your organization to ensure the property budget goals are tracked and met over time.
- iii) Capital replacement strategy and maintenance plan – describe this plan and details of intended approach for implementation.
- iv) Operation or asset management experience – identify the operator and describe its capability and experience in operating and managing residential and mixed use development.

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3.2.5 Schedule Considerations

- i) Development schedule – provide a summary of the proposed development, construction, and occupancy schedule (using the electronic template proforma provided in the FTP site) accompanied with detailed description of any strategy to expedite delivery of the project. Please also indicate your capacity to undertake this project given your available resources and outstanding commitments.

3.2.6 Proponent & Consultant Profile

- i) Proponent profile and hierarchy – describe the organizational framework, including number of staff, office location and Proponent’s team structure and roles. Identify and profile all consultants and other parties that will be involved in the Proposal including all members of the design and construction team. Please provide an organizational chart for this section.
- ii) Property development experience – describe the Proponent’s and Proponent team’s capability and experience in multi-family developments, and where appropriate, in mixed-use real estate development. Please describe proposed construction methods, history of delivering projects within the City of Vancouver and past instances of community engagement within the City of Vancouver.
- iii) Financial profile – provide the most recent three year audited financial statements from all entities that form the Proponent’s team.
- iv) Affiliations - describe any affiliations and history with mission-based organizations or organization with affordable housing objectives. Please provide written testimonials for these affiliations.
- v) Social engagement – describe the support, outreach and training opportunities that would be provided for people on low incomes, local businesses, and local labour.

3.2.7 Sustainability

Please refer to Section 3.10 and 3.11 below.

3.3 Form of Development

The form of development should fit within the City of Vancouver Planning, Urban Design and Engineering parameters of the site, including adhering to all set-back and step-back requirements. However, Proponents are encouraged to be innovative and creative in coming up with a project which is economically feasible and delivers maximum affordability, unit yields, and amenity space.

The initial design concept derived by the Housing Agency is a mixed-use, concrete building with an overall height of approximately 94.5 feet, a single storey commercial/retail podium, 99 dwelling units above and underground parking. Particulars include but are not limited to:

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- Underground parking;
- Single storey CRU podium;
- Density to be determined by form of development performance;
- Residential unit mix to include studio, 1 bedroom, 2 bedroom and 3 bedroom units;
- Minimum of thirty five percent (35%) family units;
- Appropriate amounts of indoor and outdoor amenity space;
- Minimum of five percent (5%) accessible units;
- Vancouver Building By-law (“VBBL”) Part 10 requirements at a minimum, with Passive House Certified as the optimum target;
- Minimize indoor air contaminants through the use of low VOC materials; and
- Low carbon fuel sources.

The proposal should respond to the site’s relationship to its surrounding context. It is anticipated that proposals received through this RFP will vary from this concept to optimize the development objectives, while carefully considering City Planning and Urban Design performance. Proponents are directed to review the guidance documents on the FTP site, including the subject property title documents and relevant charges on title which could impact the potential building design.

3.4 Rezoning

It is not anticipated that the subject property will require a rezoning.

3.5 Unit Mix

The Housing Agency anticipates that at least thirty five percent (35%) of the units will be targeted as family units (two and three bedroom units).

The number of units and unit mix will be finalized through the development process but preliminary estimates by the Housing Agency indicate that 99 units may be possible with a unit mix as follows:

**Table 4: Unit Mix**

Unit Type	Number of Units	% of Units	Minimum unit size (square feet) excluding storage
Studio units	30	30%	320
1 Bedroom units	34	35%	500

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<b>2 Bedroom units</b>	25	25%	700
<b>3 Bedroom units</b>	10	10%	900
<b>Total</b>	99		

3.6 Minimum and Target Affordability

As minimum eligibility criteria the following affordability requirements must be met or exceeded. The minimum affordability for this project is for the residential units to be rented such that (a) “Gross Achievable Income” will be 90% or less than “Potential Gross Income”, and (b) at least 20% of the units have rents that represent no more than 30% of the “Household Median Income” for Vancouver. An explanation of the terms is below:

- “Gross Achievable Income” means the total annual income from all residential units in the Property, based on the rent proposed for each unit in the Proposal;
- “Potential Gross Income” means the total annual income from all residential units in the Property, based on the market rent for each unit, as estimated by the Proponent or as determined by the Housing Agency, whichever is lower; and
- “Household Median Income” refers to the information on median total income, by family type, by the census metropolitan area (all census families) as reported by Statistics Canada. Unless modified by Statistics Canada, the information can be found at the link below. The latest reported annual “Household Median” Income for Vancouver is \$76,040; therefore 30% of the “Household Median Income” is \$22,812 a year or \$1,901 a month.

The minimum affordability eligibility requirements are based on the requirements of the Canadian Mortgage and Housing Commission Rental Construction Financing Initiative. (See <https://www.cmhc-schl.gc.ca/en/hoficlincl/moloin/mupr/rental-construction-financing.cfm>). There may be opportunity for the selected Proponent to make an application to CMHC for construction financing through this initiative.

The Housing Agency is seeking to target deeper affordability beyond the minimum requirements set out above, therefore the Agency would ideally like to achieve the targeted affordability set out below. Proponent responses will be measured and evaluated against the targeted affordability requirements:

- 50% of units to rent to households earning below the Housing Income Limits (“HILs”) as set by BC Housing at rents geared to 30% of income;
- A portion of below HILS units for low income singles in receipt of welfare (typically at rents of \$375);
- 50% of units to rent up to 90% of market rent, capped at no more than 30% of the “BC Housing Moderate Income Limits”;

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- Mix of affordability across unit types; and
- Low to moderate income families for two bedroom and larger.

The target requirements outlined above represents the Agency's preferred affordability. Proponents may submit proposals that vary from this (e.g. HILs units may only be rent geared to income at initial occupancy) but the target above will be considered as a benchmark in the evaluation.

### 3.7 Accessible Units

Access or accessible can be defined as if a person with disabilities is able without assistance to approach, enter, pass to and from, and make use of an area and its facilities. In addition to the requirements set out in Section 3.8 of Division B of the VBBL, five percent (5%) of all units must be fully wheelchair accessible. Depending on a need and demand analysis, the number may increase to accommodate more wheelchair accessible units in the project and it is assumed that all units in the Proposal will be adaptable.

The Proponent may propose a design which encompasses a higher number of accessible units in order to access funding sources. As an example of this the CMHC requires ten percent (10%) of all units to be accessible in order to qualify for their Rental Construction Financing initiative. For more information regarding CMHC requirements, please refer to the FTP site.

### 3.8 Amenities on Site

Amenity space will be determined through the development process. The proposal should include appropriate amounts of indoor and outdoor amenity space for tenants.

### 3.9 Non-Residential Space

A single level of commercial/ retail units is anticipated at grade.

### 3.10 Minimum and Target Sustainability Standards

As noted above in 3.3, the minimum eligibility criteria of the VBBL Part 10 requirements must be met or exceeded.

The Housing Agency is seeking to deepen sustainability levels beyond the minimum requirements set out above. Therefore, the Agency would ideally like this project to improve building energy performance by meeting the Low Emissions Green Building standards, as per the Green Buildings Policy for Rezonings, and adopting elements of the Near Zero Emissions Building policy, with Passive House or an Alternative Zero Emissions standard as the optimum target, as per the Zero Emissions Building Plan. Proponent responses will be measured and evaluated against the energy improvements proposed above the minimum requirements and as follows:

The highest scoring for Sustainability will be given to responses that include Passive House certification. The next highest scoring will be given to responses that include Passive House Low

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Energy certification, including the use of Passive House Planning Package (“PHPP”) and Passive House certified components for windows, doors, Heat Recovery Ventilation (“HRV”), etc. Less scoring will be given to responses meeting the requirements of the Green Building Policy for Rezonings, with the lowest scoring given to responses only meeting the criteria of the VBBL Part 10.

3.11 Neighbourhood Energy Utility (“NEU”) Connection

Connectivity to the NEU system is not required for this location.

3.12 Community Engagement

The successful Proponent will be expected to develop and execute a community engagement strategy with stakeholders, including local businesses, community organizations, and residents, and provide a summary report analyzing the findings. The report will form part of the development application package.

Proponents are required to demonstrate competency in a variety of community engagement activities and clearly illustrate both understanding and/or experience in the challenges of discussing affordable housing through public consultation.

**4.0 COSTS**

4.1 Capital Requirements

The Proponent will ascertain the Development Cost and formulate their funding and financing strategy accordingly.

The Housing Agency will assess these costs estimates and proposed funding strategy for their reasonableness and viability.

Consequently, the Proponent is encouraged to provide in detail the basis of their estimates where it pertains to (a) construction costs such as hard costs and soft costs; (b) terms of interim financing including construction loan interest rate, (c) take-out financing including anticipated size of proposed mortgage, tenure, interest rate and minimum debt coverage ratio requirement, as well as (d) amount of equity financing.

**5.0 EQUITY CONTRIBUTION**

5.2 Equity Requirements

Where necessary, the Proponent is expected to contribute equity to meet any capital requirements beyond available debt financing.

However, where the required equity contribution is minimal or non-existent, the Proponent will also be assessed by the size of their proposed equity contribution towards reducing the liquidity risk of the project or to deepening the affordability of the units.

**PART B3 – HOUSING AGENCY REQUIREMENTS FOR 177 WEST PENDER STREET**

**1.0 ALIGNMENT WITH THE CITY OF VANCOUVER’S CITYWIDE AND COMMUNITY POLICIES**

**1.1 Guiding Documents**

The Housing Agency’s mandate is to expedite the delivery of affordable housing options set out in the City’s Housing and Homelessness Strategy (2012-2021). The Housing and Homelessness Strategy outlines the overall strategic direction for housing, including how much is needed and how the City will enable delivery of the housing units.

A rezoning application has been submitted and is currently under review by the Planning department and relevant teams throughout the City; the details of the proposal are set out under Section 3.0. Proponents may wish to create a new project design if they feel that they can achieve a project with a better yield and/or lower costs; however, VAHA would encourage proponents to utilize the current design and maximize the schedule.

Proponents should note that the Rezoning application submitted is for Social Housing; therefore Proponents who wish to proceed with the current rezoning application should ensure that they meet the requirement that the housing will be *‘owned by a non-profit corporation’ or ‘a non-profit co-operative association’*. If the proposal does not meet this requirement, the rezoning application will need to be revised and resubmitted accordingly.

**1.2 Policies and Links:**

For additional reference, relevant City-wide and area specific bylaws, policies, guidelines and related website links are provided below:

- Housing and Homelessness Strategy 2012-2021 (2011)  
<http://vancouver.ca/files/cov/Housing-and-Homeless-Strategy-2012-2021pdf.pdf>
- Downtown Eastside Local Area Plan (2014)  
<http://council.vancouver.ca/20140312/documents/cfsc5.PDF>
- Victory Square Policy Plan (2005)  
<http://guidelines.vancouver.ca/V002.pdf>
- Victory Square Guidelines(2006)  
<http://council.vancouver.ca/20060404/documents/Motiona1.pdf>
- Micro Dwelling Policies and Guidelines (2014)  
[http://bylaws.vancouver.ca/Bulletin/G002\\_2017April28.pdf](http://bylaws.vancouver.ca/Bulletin/G002_2017April28.pdf)
- City of Vancouver Housing Design and Technical Guidelines (2015)  
<http://vancouver.ca/files/cov/housing-design-and-technical-guidelines.pdf>
- Zero Emissions Building Plan (2016)  
<http://council.vancouver.ca/20160712/documents/rr2.pdf>

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- Green Buildings Policy for Rezoning (2017)  
<http://guidelines.vancouver.ca/G015.pdf>
- Green Buildings Policy for Rezoning – Process and Requirements (2017)  
[http://bylaws.vancouver.ca/Bulletin/G002\\_2017April28.pdf](http://bylaws.vancouver.ca/Bulletin/G002_2017April28.pdf)

**2.0 SITE INFORMATION: 177 West Pender Street**

**2.1 Site Overview**

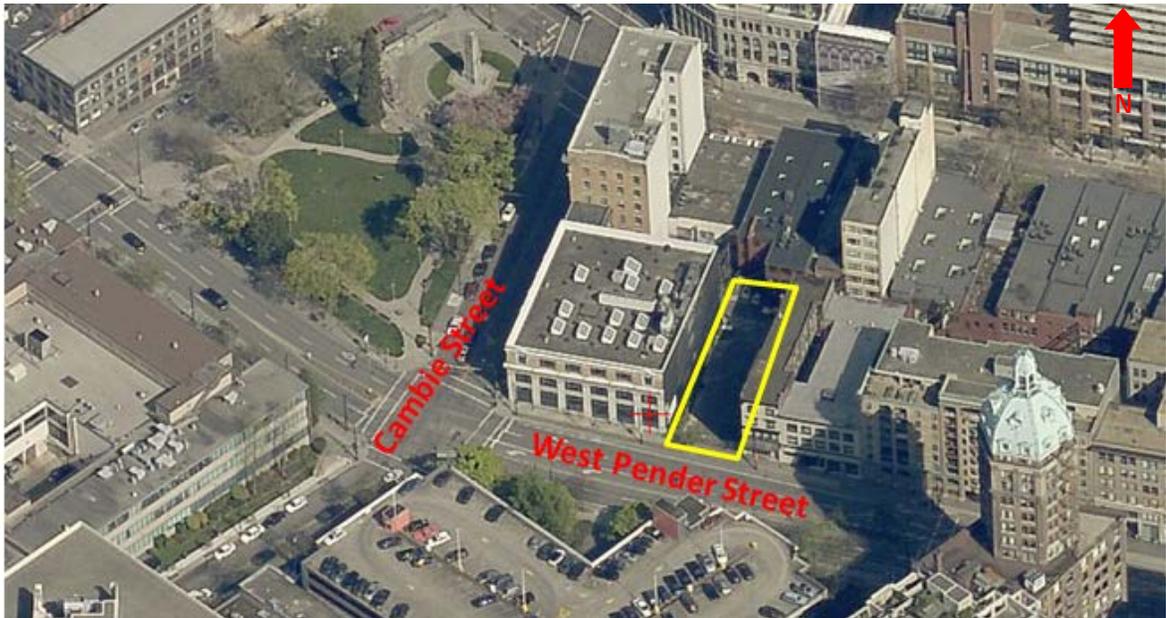


Figure 1. Aerial Site View

**Table 1: Property Information**

<b>Civic Address:</b>	177 West Pender Street
<b>PID &amp; Legal Descriptions:</b>	PID: 004-355-547, Lot 38 Block 28 District Lot 541, Plan 210 PID: 004-355-521, Lot 37, Block 28 District Lot 541 Plan 210
<b>Lot Area:</b>	6,000 square feet
<b>Lot Size(s):</b>	Two legal lots of 25.3 feet /7.71 meters (frontage) x 120 feet/36.57 meters (depth)
<b>Frontage:</b>	West Pender Street: 50.6 feet/ 15.42 meters
<b>Zoning:</b>	DD (C2): proposed rezoning to CD-1 (In progress)
<b>Planning Division:</b>	Vancouver Downtown
<b>Neighbourhood:</b>	Downtown (Downtown Eastside)
<b>Site Description:</b>	Rectangular, midblock site on the north side of West Pender Street between Cambie Street and Abbott Street. The site slopes downwards from west to east, and is approximately seven feet below Pender Street grade to the level, rear lane. There are existing foundation footings from the former improvement left affixed to the adjacent buildings.

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	An areaway is present, adjacent to the property beneath the sidewalk. Engineering recommends removal of the areaway as a condition of the development permit. The building would have to construct a cut-off wall at the property line to support the street, breakdown the areaway walls 5.0 feet below grade, backfill the space to City standards and finally restore the sidewalks to meet the sidewalk treatment plans for the area.
<b>Current Use:</b>	Vacant. The site is asphalt paved and is secured by fencing at the front and back of the property.
<b>Proposed Development:</b>	VAHA submitted a rezoning application for a 10-storey concrete residential apartment building; FSR of 6.93, height of 105 feet and a total of 90 dwelling units, comprising micro, studio and accessible studio unit sizes.

2.2 Site Context:

The subject property is located midblock between Cambie Street and Abbott Street on the north side of West Pender Street, within the Downtown neighbourhood of Vancouver. The Downtown neighbourhood is bounded by Burrard Inlet to the north, False Creek to the south, Strathcona to the east and the West End and Stanley Park to the west. See Figures 1 and 2 for context.



Figure 2: Downtown neighbourhood

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The site also lies within “Victory Square District” of the Downtown Eastside neighbourhood. The Downtown Eastside is one of the city’s oldest neighbourhoods and is the historic heart of Vancouver with many health and social services that are vital for low-income residents. It has been a predominantly low-income community with low-income incomes as the largest component of its population. The “Victory Square District” is a rental housing district, which is a priority area for social housing, local economic development for the low-income community, and revitalisation of “Japantown” and aboriginal heritage. The “Local Area Plan” strives to retain and improve existing housing stock and provide opportunity for new affordable housing.

The area has a distinctive historic character, with a mix of commercial, residential and institutional uses in the immediate area. The exception to this is the above grade City-owned parkade that dominates the block opposite the site.

The area is also well served by public transit, with Chinatown–Stadium SkyTrain station and multiple bikeshare stations and bus stops within a 10 minute walk of the subject site.

2.3 Property Details:

The subject property is a vacant, narrow rectangular site situated midblock between Cambie Street and Abbott Street, on the north side of Pender Street. The site is approximately 6,000 square feet and has a rear lane running along the northern boundary, which is used for utility servicing (see Figure 3). The site fronts West Pender Street, a two-way, four-lane road, with cycle lanes on both sides of the road.

The site slopes downwards towards the rear lane (from south west to north east) and is serviced for all utilities, including hydro, water, storm and sanitary sewer, natural gas, telephone.



Figure 3: Site location plan

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2.4 Zoning

The site is currently zoned DD (C2). Please refer to the City of Vancouver’s Zoning and Development Bylaw for complete details. For information on District Schedule see: <http://bylaws.vancouver.ca/zoning/dd.pdf>  
 For Downtown ODP see: <http://bylaws.vancouver.ca/odp/dd.pdf>.

The current zoning permits a maximum density of 5 FSR and a maximum height of 22.9 meters/75 feet (which may be relaxed to 32 meters/105 feet for social housing or secured market rental).

The Housing Agency has submitted a rezoning proposal to rezone the site from DD to CD-1, under the *Downtown Eastside Local Area Plan*, in order to achieve a higher density. For further details see section 3.4.

2.5 Current Use and Neighbouring Site Information

The subject property is currently vacant, please see table 2 below for neighbouring site information.

**Table 2: Neighbouring Sites and Current Uses**

Address	Location in relation to site and use
165 West Pender Street	Immediately east of the property is the Avalon Hotel, which is a three- and four-storey, 85-unit Single Room Occupancy (“SRO”).
150 West Pender Street	Across West Pender Street to the south of the subject site is a City-owned, six-level, above-ground parking structure.
440 Cambie Street	Immediately west of the property is a three-storey, stratified office building, one of the tenants is the Architectural Institute of British Columbia (“AIBC”).
152 West Hastings Street	Across the lane to the north of the subject site is a three-storey Heritage “C” building, which currently contains three commercial tenants.

2.6 Environmental Conditions

Environmental investigations have been conducted on the subject property to assess for contamination related to off-site areas of potential environmental concern: a dry cleaner and printers. No soil or groundwater contamination was identified on the subject property. No further environmental investigation is necessary prior to issuance of rezoning, development, and occupancy permits for the subject property. In the event that unexpected contamination is encountered or suspected during work at the subject property, the contamination must be managed / overseen by the City’s Contaminated Sites Team.

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In support of the Rezoning Application for 177 West Pender Street, the City's Environmental Services group has completed a "Site Profile Exemption Declaration" indicating that a Site Profile is not required due to the absence of any Schedule 2 uses or activities on the site.

All costs associated with environmental remediation must be approved by the City.

**2.7**    Hazardous Materials

The City and the Housing Agency believe that there are no hazardous materials on the site. However, if found all costs associated with hazardous materials removal must be approved by the City.

**3.0**    **DEVELOPMENT PROPOSAL: 177 West Pender Street**

**3.1**    Proposal Objectives and Standards

The development objectives for the subject property are to develop high quality affordable rental projects for singles that maximizes both the number of units and affordability levels.

To realize these objectives, the Housing Agency retained specialist consultants to form a multi-disciplinary Development Team that would, initially, secure the rezoning of the sites. Accordingly, a comprehensive coordinated design has been developed for the site, along with a rationale for the rezoning, which is supported by the Downtown Eastside Local Area Plan. The rezoning application has been submitted and is currently under review by the Planning department and relevant teams throughout the City. The designs achieve the following:

- i)        Maximize affordability and number of housing units;
- ii)       Respond to all City of Vancouver Planning, Urban Design and Engineering bylaws, policies and guidelines or provide a robust design rationale to justify any requests for relaxations to requirements;
- iii)      Provide an appropriate mix of micro-dwelling and studio units;
- iv)       Provide a minimum of 5% of all units as fully wheelchair accessible and 100% of units as adaptable to changing needs over time;
- v)        Lead the market transformation towards Passive House and Zero Emissions standards and design by creating cost-effective built examples; and
- vi)       Address any community concerns through comprehensive and sensitive engagement activities.

**3.2**    Proposal Details

Proposals should include the information as detailed below together with a completed electronic template proforma as provided in the FTP.

**3.2.1**   Financials

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- i) Please also refer to Sections 4.0 and 5.0 when completing this section of the Proposal.
- ii) Prepaid land lease - indicate (using the electronic template proforma provided in the FTP site) the amount of prepaid land lease, if any, that the Proponent will pay to the City for the lease.
- iii) Development costs – Please provide hard and soft costs, contingency, and other relevant development costs information using the electronic template proforma provided in the FTP site.
- iv) Funding and financing details – describe financing assumptions during the development phase and after the project is completed including but not limited to the loan quantum, the term of the loan, and all financing costs e.g., interest rates, projected equity gap (or proposed equity contribution where there is minimal or no equity gap) using the electronic template proforma provided in the FTP site. For the avoidance of doubt, financing will not be provided by the City of Vancouver or the Housing Agency.
- v) Cashflow – provide a cashflow for Project covering the first thirty five (35) years of operation (please provide a copy of the cashflow electronically in a Microsoft Excel format).

Please confirm the Proponent’s agreement to (i) the cost of reimbursing the Housing Agency for such development work already carried out, and (ii) the amount of fees payable to the Housing Agency.

3.2.2 Affordability

- i) Please also refer to Section 3.6 when completing this section of the Proposal.
- ii) Revenue model – provide (using the electronic template proforma provided in the FTP site) all relevant information including the number of units proposed to be let at market (if any) and below-market.
- iii) Operating cost model – provide (using the electronic template proforma provided in the FTP site) all relevant information including the projected operating costs and planned replacement reserves.

Note: where the Proponent intends to submit a proposal involving more than one site, the Proponent may be able to deliver a deeper affordability in aggregate for these sites because of various reasons including economies of scale, risk perception and returns expectation. If this is applicable, the Proponent is advised to provide all other additional relevant information including the affordability information on such a consolidated basis to strengthen its proposal.

3.2.3 Design Considerations

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- i) Project plan and design considerations – provide (using the electronic template proforma provided in the FTP site, where applicable, and separately) the massing plan, form of construction, gross floor area, number and type of units, unit size, CRU space provision (where applicable), efficiency assumptions, and parking area. Each proposal must include a statement affirming conformity with City Planning, Urban Design and Engineering bylaws, policies and guidelines, and provide detailed justifications for any proposed variances. Each proposal must contain a comprehensive design rationale for all relevant aspects, including the number of units, the choice of materials proposed as well as any design responses to deepen affordability by lowering capital costs and/or operating costs, and optimize sustainability and green lifestyles.

3.2.4 Operational Considerations

- i) Tenant management strategy – describe the tenant selection process, tenant settlement process, tenant participation strategy, rent control strategy, and replacement tenant strategy.
- ii) Property management plan – describe the proposed property management plan to be used for the operation of the building upon completion and tenancy including, where possible, an outline of processes tools or methods to be used by your organization to ensure the property budget goals are tracked and met over time.
- iii) Capital replacement strategy and maintenance plan – describe this plan and details of intended approach for implementation.
- iv) Operation or asset management experience – identify the operator and describe its capability and experience in operating and managing residential and mixed use development.

3.2.5 Schedule Considerations

- i) Development schedule – provide a summary of the proposed development, construction, and occupancy schedule (using the electronic template proforma provided in the FTP site) accompanied with detailed description of any strategy to expedite delivery of the project. Please also indicate your capacity to undertake this project given your available resources and outstanding commitments.

3.2.6 Proponent & Consultant Profile

- i) Proponent profile and hierarchy – describe the organizational framework, including number of staff, office location and Proponent’s team structure and roles. Identify and profile all consultants and other parties that will be involved in the Proposal including all members of the design and construction team. Please provide an organizational chart for this section.
- ii) Property development experience – describe the Proponent’s and Proponent’s team’s capability and experience in multi-family developments, and where appropriate, in

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mixed-use real estate development. Please describe proposed construction methods, history of delivering projects within the City of Vancouver and past instances of community engagement within the City of Vancouver.

- iii) Financial profile – provide the most recent three year audited financial statements from all entities that form the Proponent’s team.
- iv) Affiliations - describe any affiliations and history with mission-based organizations or organization with affordable housing objectives. Please provide written testimonials for these affiliations.
- v) Social engagement – describe the support, outreach and training opportunities that would be provided for people on low incomes, local businesses, and local labour.

3.2.7 Sustainability

Please refer to Section 3.10 & 3.11 below.

3.3 Form of Development

The Housing Agency submitted a rezoning application for the subject site(s) on June 12, 2017. The details of the proposal are available on the FTP site and on the City’s website at <http://rezoning.vancouver.ca/applications/>.

The Rezoning application project information is as follows:

- Social Housing project;
- Ten (10) storey concrete building: Building height of 32 meters (105 feet);
- Floor Space Ratio (FSR) of 6.93;
- One level of below grade parking with sixty-eight (68) bicycle parking spaces, one loading space and no vehicle parking stalls.
- Residential unit mix comprising eighty-two (82) Micro Dwellings, eight (8) Studio units;
- 2,207.7 square foot indoor amenity space and additional outdoor amenity space;
- 5% accessible units;
- Low Emissions Green Building pathway of the Green Buildings Policy for Rezonings;
- Minimize indoor air contaminants through the use of low VOC materials; and
- No NEU connection requirement.

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Should the Proponent wish to proceed with the form of development detailed above, the Housing Agency will assign the existing contracts to the successful Proponent.

Should the Proponent wish to submit a Proposal for an alternate Form of Development the Proposal should be prepared based upon the guiding principles provided in the bylaws, policies, reports and guidelines posted on the City website. These include, but are not limited to: Housing and Homelessness Strategy, Downtown Eastside Local Area Plan, Micro Dwelling Policies and Guidelines, and the City of Vancouver Housing Design and Technical Guidelines. Further policies and links are listed under section 1.2 of this RFP.

Proponents are directed to review the guidance documents on the FTP site, including the subject property title documents and relevant charges on title which could impact the potential building design and construction methods.

3.4 Rezoning

As stated under section 3.3, the Housing Agency submitted a rezoning application for the subject site on June 12, 2017 in order to maximize the density that a development proposal may achieve.

Through Rezoning from DD to CD-1, it is estimated that a development proposal may achieve additional density as per the following:

(Under the Downtown Eastside Local Area Plan)

*7.1.2 Victory Square: Density*

*“Through rezoning, consider additional density for public benefits including social housing, secured market rental housing, and/or heritage building rehabilitation.”*

The exact allowable and appropriate density will be established as part of the rezoning by the form of development performance.

3.5 Unit Mix

The rezoning application proposes a total of 90 units with a unit mix as identified in Table 3 below:

**Table 3: Unit Mix**

Unit Type	Number of Units	% of Units	Minimum unit sizes (square feet) excluding storage	Proposed units sizes (square feet) excluding storage
<b>Micro Dwelling units</b>	82	91%	250	250 - 265
<b>Studio units</b>	8	9%	320	372 - 374

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<b>Total</b>	<b>90</b>	100%		
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3.6 Social Housing

The current Rezoning Application proposes a Social Housing Development; the City of Vancouver definition of Social Housing for areas within the C2 area of the Downtown District, as set out under the Vancouver Zoning and Development Bylaw, is detailed below:

*"...in the area of the Downtown district denoted as C2 on Map 1 of the Downtown Official Development Plan; social housing means rental housing:*

- (a) in which at least one third of the dwelling units are occupied by persons eligible for either Income Assistance or a combination of basic Old Age Security pension and Guaranteed Income Supplement and are rented at rates no higher than the shelter component of Income Assistance;*
- (b) which is owned by a non-profit corporation, by a non-profit co-operative association, or by or on behalf of the city, the Province of British Columbia, or Canada; and*
- (c) in respect of which the registered owner or ground lessee of the freehold or leasehold title to the land on which the housing is situate has granted to the city a section 219 covenant, housing agreement, or other security for the housing commitments required by the city, registered against the freehold or leasehold title, with such priority of registration as the city may require."*

Proponents who wish to proceed with the rezoning application as proposed should ensure that they meet the requirement that the housing is *"owned by a non-profit corporation, by a non-profit co-operative association"*. If the Proponent does not propose a non-profit corporation, by a non-profit co-operative association to own the building, the rezoning application will need to be revised and resubmitted accordingly.

3.7 Minimum and Target Affordability

The current zoning application proposes to meet or exceed the social housing rental requirements for the C2 area of the Downtown District as detailed under 3.6 above. The Downtown Eastside Local Area Plan imposes further targets under Policy 9.2.14 as follows:

*9.2.14 (Increase Affordable Housing Options for Downtown Eastside Residents):*

*"At least one third of new social housing units must be rented at shelter component of Income Assistance for low-income households who are eligible for Income Assistance or a combination of Old Age Pension and Guaranteed Income Supplement. The target rents and affordability for the remaining two-thirds will be for one of these thirds to be up to "Housing Income Limits" or HILs, and the remaining third to be at affordable market rents"*.

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In light of the above, the minimum affordability levels currently proposed are as follows:

- i) One-third of the properties to be rented at shelter rates;
- ii) One-third of the properties to be rented at Housing Income Limits (“HILs”) as set by BC Housing; and
- iii) One-third of the properties to be rented at up to market rents.

For the avoidance of doubt, the 2017 HILs, and the maximum rental rates based on these rates, are indicated in Table 4 below:

**Table 5: 2017 HILs rates**

Unit Type	2017 HILs (\$ per year)	Rental Rates based on 2017 HILs (\$ per unit per month)
Micro Dwelling/ Studio	<b>\$40,000</b>	<b>\$1,000</b>

The rental rates for the remainder units should be determined by the Proponent. In arriving at these rental rates, the Proponent is advised to consider the mandate of the Housing Agency, which is to deliver affordable housing to the City of Vancouver.

Should the Proponent propose to resubmit the rezoning application as a “Secured Market Rental” rezoning, the following affordability requirements must be met or exceeded.

The minimum affordability for this project as a Secured Market Rental is for the residential units to be rented such that (a) “Gross Achievable Income” be 90% or less than “Potential Gross Income”, and (b) at least 20% of the units have rents that represents no more than 30% of the “Household Median Income” for Vancouver. An explanation of the terms is below:

- “Gross Achievable Income” means the total annual income from all residential units in the property, based on the rent proposed for each unit in the Proposal;
- “Potential Gross Income” means the total annual income from all residential units in the property, based on the market rent for each unit, as estimated by the Proponent or as determined by the Housing Agency, whichever is lower; and
- “Household Median Income” refers to the information on median total income, by family type, by the census metropolitan area (all census families) as reported by Statistics Canada. The latest reported annual “Household Median” Income for Vancouver is \$76,040; therefore 30% of the “Household Median Income” is \$22,812 a year or \$1,901 a month.

The minimum affordability eligibility requirements are based on the requirements of the CMHC Rental Construction Financing Initiative. (See <https://www.cmhc-schl.gc.ca/en/hoficlincl/moloin/mupr/rental-construction-financing.cfm>). There may be an

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opportunity for the selected Proponent to make an application to CMHC for construction financing through this initiative.

The Housing Agency is seeking to target deeper affordability levels beyond the CMHC minimum requirements set out above. Therefore, proposals which are not based upon the Social Housing rental levels will be measured and evaluated against the following targeted affordability requirements:

- 50% of units to rent to households earning below the HILs as set by BC Housing at rents geared to 30% of income;
- A portion of below HILs units for low income singles in receipt of welfare (typically at rents of \$375);
- 50% of units to rent up to 90% of market rent, capped at no more than 30% of the “BC Housing Moderate Income Limits”;
- Mix of affordability across unit types; and
- Low to moderate income families for two bedroom and larger.

The target requirements outlined above represents the Agency’s preferred affordability for any proposals which propose alternative rental levels to that of social housing. Proponents may submit proposals that vary from this (e.g. HILs units may only be rent geared to income at initial occupancy) but the target above will be considered as a benchmark in the evaluation.

### 3.8 Accessible Units

Access or accessible means that a person with disabilities is, without assistance, able to approach, enter, pass to and from, and make use of an area and its facilities. In addition to the requirements set out in Section 3.8 of Division B of the VBBL, five percent (5%) of all units must be fully wheelchair accessible. Depending on a need and demand analysis, the number may increase to accommodate more wheelchair accessible units in the project. It is anticipated that all units will be adaptable.

### 3.9 Amenities on Site

The proposal includes indoor and outdoor amenity space for tenants.

There is an amenity spaces on the ground floor of the buildings and shared outdoor space on levels 3 and 10 as described below:

- L1 - 2,207.9 square feet indoor amenity space (including washroom);
- L3 - 542 square feet shared outdoor space;
- L10 - 1,181.2 square feet shared outdoor space;

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All units also have large windows and Juliette balconies or access to a patio or balcony.

**3.10 Minimum and Target Sustainability Standards**

The project is pursuing compliance with the "Low Emission Green Buildings" compliance path of the City of Vancouver's Green Buildings Policy for Rezoning.

The Housing Agency is seeking to deepen sustainability levels beyond the minimum requirements set out above. Therefore, the Agency would ideally like projects to improve building energy performance by adopting elements of the Near Zero Emissions Building policy, with Passive House Certified as the optimum target, as per the Zero Emissions Building Plan.

Any alternative proposals to the Form of Development proposed under the Rezoning application will be measured and evaluated against the energy improvements proposed above the minimum Low Emissions requirements, and as follows:

The highest scoring for Sustainability will be given to responses that include Passive House certification. The next highest scoring will be given to responses that include Passive House Low Energy certification, including the use of Passive House Planning Package ("PHPP") and Passive House certified components for windows, doors, Heat Recovery Ventilation ("HRV"), etc. Less scoring will be given to responses meeting the requirements of the Green Building Policy for Rezonings.

**3.11 Neighbourhood Energy Utility ("NEU") connection**

This is not required, since the project is outside an NEU area.

**3.12 Community Engagement**

The successful Proponent will be expected to develop and execute a community engagement strategy with stakeholders, including local businesses, community organizations, and residents, and provide a summary report analyzing the findings. The report will form part of the rezoning and/or development application package(s).

Proponents are required to demonstrate competency in a variety of community engagement activities and clearly illustrate both understanding and/or experience in the challenges of discussing affordable housing through public consultation.

**4.0 COSTS**

**4.1 Capital Requirements**

The Proponent will ascertain the Development Cost and formulate their funding and financing strategy accordingly. The Housing Agency will assess these costs estimates and proposed funding strategy for their reasonableness and viability. Consequently, the Proponent is encouraged to provide in detail the basis of their estimates where it pertains to:

- (a) construction costs such as hard costs and soft costs;

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- (b) terms of interim financing including construction loan interest rate;
- (c) take-out financing including anticipated size of proposed mortgage, tenure, interest rate and minimum debt coverage ratio requirement; and
- (d) amount of equity financing.

**5.0 EQUITY CONTRIBUTION**

5.1 Equity Requirements

Where necessary, the Proponent is expected to contribute equity to meet any capital requirements beyond available debt financing.

However, where the required equity contribution is minimal or non-existent, the Proponent will also be assessed by the size of their proposed equity contribution towards reducing the liquidity risk of the project or to deepen the affordability of the units.

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PART C - FORM OF PROPOSAL

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**PART C – FORM OF PROPOSAL**

**RFP No. PSVAHA2017-05, Development Partner for 1190 Burrard Street, 1210 Seymour Street and 177 West Pender Street (the "RFP")**

**Proponent's Name:** \_\_\_\_\_  
"Proponent"

**Address:** \_\_\_\_\_  
\_\_\_\_\_

**Jurisdiction of Legal Organization:** \_\_\_\_\_

**Date of Legal Organization:** \_\_\_\_\_

**Key Contact Person:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_

The Proponent, having carefully examined and read the RFP, including all amendments and addenda thereto, if any, and all other related information published on the website for the City of Vancouver and the Vancouver Affordable Housing Agency, hereby acknowledges that it has understood all of the foregoing, and in response thereto hereby submits the enclosed Proposal.

The Proponent further acknowledges that it has read and agrees to the Legal Terms & Conditions attached as Appendix 1 to this Form of Proposal.

IN WITNESS WHEREOF the Proponent has executed this Proposal Form:

\_\_\_\_\_  
Signature of Authorized Signatory for the Proponent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title

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**APPENDICES**

The Form of Proposal includes the following attached Appendices:

- APPENDIX 1      Legal Terms and Conditions of RFP
- APPENDIX 2      Questionnaire– Intentionally Deleted
- APPENDIX 3      Commercial Proposal– Intentionally Deleted
- APPENDIX 4      Proponents References
- APPENDIX 5      Certificate of Insurance – Intentionally Deleted
- APPENDIX 6      Declaration of Supplier Code of Conduct Compliance
- APPENDIX 7      Corporate Sustainability Leadership Questionnaire
- APPENDIX 8      Personal Information Consent Form(s)
- APPENDIX 9      Subcontractors– Intentionally Deleted
- APPENDIX 10     Proposed Amendments to Form of Agreement
- APPENDIX 11     Financial Statements
- APPENDIX 12     Proof of WorkSafeBC Registration
- APPENDIX 13     Conflicts; Collusion; Lobbying

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**APPENDIX 1  
LEGAL TERMS AND CONDITIONS OF RFP**

**1 APPLICATION OF THESE LEGAL TERMS AND CONDITIONS**

These legal terms and conditions set out the Housing Agency's and the Proponent's legal rights and obligations only with respect to the RFP proposal process and any evaluation, selection, negotiation or other related process. In no event will the legal terms and conditions of this Appendix 1 apply to, or have the effect of supplementing, any Contract formed between the Housing Agency and/or the City and the Proponent, or otherwise apply as between the Proponent and the Housing Agency and/or the City following the signing of any such Contract.

**2 DEFINITIONS**

In this Appendix 1, the following terms have the following meanings:

- (a) "City" means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter.
- (b) "Contract" means a legal agreement, if any, entered into between the City and/or the Housing Agency and the Proponent following and as a result of the Proponent's selection by the Housing Agency in the Housing Agency's RFP process.
- (c) "Housing Agency" means the Vancouver Affordable Housing Agency Ltd., a company formed under the laws of the British Columbia.
- (d) "Losses" means, in respect of any matter, all direct or indirect, as well as consequential: claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including without limitation all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement whether from a third person or otherwise).
- (e) "Proponent" means the legal entity which has signed the Proposal Form, and "proponent" means any proponent responding to the RFP, excluding or including the Proponent, as the context requires.
- (f) "Proposal" means the package of documents consisting of the Proposal Form (including this Appendix 1), the Proponent's proposal submitted under cover of the Proposal Form, and all schedules, appendices and accompanying documents, and "proposal" means any proposal submitted by any proponent, excluding or including the Proponent, as the context requires.
- (g) "Proposal Form" means that certain Part C of the RFP, completed and executed by the Proponent, to which this Appendix 1 is appended.
- (h) "RFP" means the document issued by the Housing Agency" means the Vancouver Affordable Housing Agency Ltd., a company formed under the laws of the British Columbia as Request for Proposals No. PSVAHA2017-05, as amended from time to time and including all addenda.

**3 NO LEGAL OBLIGATION ASSUMED BY THE HOUSING AGENCY OR THE CITY**

Despite any other term of the RFP or the Proposal Form, including this Appendix 1 (except only Sections 7, 8.2 and 10 of this Appendix 1, in each case to the extent applicable), neither the Housing Agency nor the City assumes no legal duty or obligation to the Proponent or to any proposed subcontractor in respect of the RFP, its subject matter or the Proposal unless and until the Housing Agency or the City enters into a Contract, which the Housing Agency or the City may decline to do in the Housing Agency or the City's sole discretion.

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**4 NO DUTY OF CARE OR FAIRNESS TO THE PROPONENT**

The Housing Agency, acting as an agency for the City is a public body required by law to act in the public interest. In no event, however, does the Housing Agency, or the City owe *to the Proponent or to any of the Proponent's proposed subcontractors* (as opposed to the public) any contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFP process, or any contract or tort law duty to preserve the integrity of the RFP process. The Proponent hereby waives and releases the Housing Agency and the City from any and all such duties and expressly assumes the risk of all Losses arising from participating in the RFP process on this basis.

**5 EVALUATION OF PROPOSALS**

**5.1 Compliance / Non-Compliance**

Any proposal which contains an error, omission or misstatement, which contains qualifying conditions, which does not fully address all of the requirements or expectations of the RFP, or which otherwise fails to conform to the RFP may or may not be rejected by the Housing Agency at the Housing Agency's sole discretion. The Housing Agency may also invite a proponent to adjust its proposal to remedy any such problem, without providing the other proponents an opportunity to amend their proposals.

**5.2 Reservation of Complete Control over Process**

The Housing Agency reserves the right to retain complete control over the RFP and proposal processes at all times. Accordingly, the Housing Agency is not legally obligated to review, consider or evaluate the proposals, or any particular proposal, and need not necessarily review, consider or evaluate the proposals, or any particular proposal, in accordance with the procedures set out in the RFP, and the Housing Agency reserves the right to continue, interrupt, cease or modify its review, evaluation and negotiation processes in respect of any or all proposals at any time without further explanation or notification to any proponents.

**5.3 Discussions/Negotiations**

The Housing Agency may, at any time prior to signing a Contract, discuss or negotiate changes to the scope of the RFP, any proposal or any proposed agreement with any one or more of the proponents without having any duty or obligation to advise the Proponent or to allow the Proponent to vary its Proposal as a result of such discussions or negotiations with other proponents or changes to the RFP or such proposals or proposed agreements, and, without limiting the general scope of Section 6 of this Appendix 1, the Housing Agency will have no liability to the Proponent as a result of such discussions, negotiations or changes.

**5.4 Acceptance or Rejection of Proposals**

The Housing Agency has in its sole discretion, the unfettered right to: accept any proposal; reject any proposal; reject all proposals; accept a proposal which is not the lowest-price proposal; accept a proposal that deviates from the requirements of the RFP or the conditions specified in the RFP; reject a proposal even if it is the only proposal received by the Housing Agency; accept all or any part of a proposal; enter into agreements respecting the subject matter of the RFP with one or more proponents; or enter into one or more agreements respecting the subject matter of the RFP with any other person at any time.

**6 PROTECTION OF THE HOUSING AGENCY AND THE CITY AGAINST LAWSUITS**

**6.1 Release by the Proponent**

Except only and to the extent that the Housing Agency or the City is in breach of Section 8.2 of this Appendix 1, the Proponent now releases the City and Housing Agency, and their respective officials, agents and employees from all

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liability for any Losses incurred in connection with the RFP or the Proposal, including any Losses in connection with:

- (a) any alleged (or judicially determined) breach by the City or the Housing Agency or their respective officials, agents or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the City and the Housing Agency have no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially))
- (b) any unintentional tort of the Housing Agency or the City or its officials or employees occurring in the course of conducting the RFP process,
- (c) the Proponent preparing and submitting the Proposal;
- (d) the Housing Agency accepting or rejecting the Proposal or any other submission; or
- (e) the manner in which the Housing Agency: reviews, considers, evaluates or negotiates any proposal; addresses or fails to address any proposal or proposals; resolves to enter into a Contract or not enter into a Contract or any similar agreement; or the identity of the proponent(s) or other persons, if any, with whom the Housing Agency or the City enters any agreement respecting the subject matter of the RFP.

**6.2 Indemnity by the Proponent**

Except only and to the extent that the City or the Housing Agency breaches Section 8.2 of this Appendix 1, the Proponent indemnifies and will protect, save and hold harmless the Housing Agency and the Housing Agency, its officials, its agents and its employees from and against all Losses, in respect of any claim or threatened claim by the Proponent or any of its proposed subcontractors or agents alleging or pleading:

- (a) any alleged (or judicially determined) breach by the Housing Agency or the Housing Agency or its officials or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the City and the Housing Agency has no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially));
- (b) any unintentional tort of the City or the Housing Agency or its officials or employees occurring in the course of conducting the RFP process, or
- (c) liability on any other basis related to the RFP or the proposal process.

**6.3 Limitation of Liability**

In the event that, with respect to anything relating to the RFP or this proposal process (except only and to the extent that the Housing Agency breaches Section 8.2 of this Appendix 1), the Housing Agency, the City or its officials, agents or employees are found to have breached (including fundamentally breached) any duty or obligation of any kind to the Proponent or its subcontractors or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its subcontractors or agents on any basis or legal principle of any kind, the Housing Agency and the City's liability is limited to a maximum of \$100, despite any other term or agreement to the contrary.

**7 DISPUTE RESOLUTION**

Any dispute relating in any manner to the RFP or the proposal process (except to the extent that the Housing Agency or the City breaches this Section 7 or Section 8.2 of this Appendix 1, and also excepting any disputes arising between the Housing Agency and/or the City and the Proponent under a Contract (or a similar contract between

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the Housing Agency and a proponent other than the Proponent)) will be resolved by arbitration in accordance with the *Commercial Arbitration Act* (British Columbia), amended as follows:

- (a) The arbitrator will be selected by the City's Director of Legal Services;
- (b) Section 6 of this Appendix 1 will: (i) bind the City, the Housing Agency, the Proponent and the arbitrator; and (ii) survive any and all awards made by the arbitrator; and
- (c) The Proponent will bear all costs of the arbitration.

## **8 PROTECTION AND OWNERSHIP OF INFORMATION**

### **8.1 RFP and Proposal Documents Housing Agency's Property**

- (a) All RFP-related documents provided to the Proponent by the Housing Agency remain the property of the Housing Agency and must be returned to the Housing Agency, or destroyed, upon request by the Housing Agency or the City.
- (b) The documentation containing the Proposal, once submitted to the Housing Agency, becomes the property of the Housing Agency, and the Housing Agency is under no obligation to return the Proposal to the Proponent.

### **8.2 Proponent's Submission Confidential**

Subject to the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia), other applicable legal requirements, and the Housing Agency's right to publicly disclose information about or from the Proposal, including without limitation names and prices, in the course of publicly reporting to the Housing Agency Board and the Vancouver City Council about the RFP, the Housing Agency will treat the Proposal (and the Housing Agency's evaluation of it), in confidence in substantially the same manner as it treats its own confidential material and information.

### **8.3 All Housing Agency Information Confidential**

- (a) The Proponent will not divulge or disclose to any third parties any non-public documents or information concerning the affairs of the Housing Agency which have been or are in the future provided or communicated to the Proponent at any time (whether before, during or after the RFP process). Furthermore, the Proponent agrees that it has not and must not use or exploit any such non-public documents or information in any manner, including in submitting its Proposal.
- (b) The Proponent now irrevocably waives all rights it may have by statute, at law or in equity, to obtain any records produced or kept by the Housing Agency in evaluating its Proposal (and any other submissions) and now agrees that under no circumstances will it make any application to the Housing Agency or any court for disclosure of any records pertaining to the receipt, evaluation or selection of its Proposal (or any other submissions) including, without limitation, records relating only to the Proponent.

## **9 NO CONFLICT OF INTEREST / NO COLLUSION / NO LOBBYING**

### **9.1 Declaration as to no Conflict of Interest in RFP Process**

- (a) The Proponent confirms and warrants that there is no officer, director, shareholder, partner, employee or contractor of the Proponent or of any of its proposed subcontractors, or any other person related to the Proponent's or any proposed subcontractor's organization (a "person having an interest") or any spouse,

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business associate, friend or relative of a person having an interest who is: (i) an official or employee of the Housing Agency or the City; or (ii) related to or has any business or family relationship with an elected official or employee of the Housing Agency or the Housing Agency, in each case, such that there could be any conflict of interest or any appearance of conflict of interest in the evaluation or consideration of the Proposal by the Housing Agency, and, in each case, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal.

- (b) The Proponent confirms and warrants that there is no person having an interest (as defined above) who is a former official, former employee or former contractor of the Housing Agency or the City and who has non-public information relevant to the RFP obtained during his or her employment or engagement by the Housing Agency or the City, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal.

**9.2 Declaration as to No Conflict of Interest Respecting Proposed Supply**

The Proponent confirms and warrants that neither the Proponent nor any of its proposed subcontractors is currently engaged in supplying (or is proposing to supply) goods or services to a third party such that entering into an agreement with the Housing Agency or the City in relation to the subject matter of the RFP would create a conflict of interest or the appearance of a conflict of interest between the Proponent's duties to the Housing Agency or the City and the Proponent's or its subcontractors' duties to such third party, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal.

**9.3 Declaration as to No Collusion**

The Proponent confirms and warrants that:

- (a) the Proponent is not competing within the RFP process with any entity with which it is legally or financially associated or affiliated, and
- (b) the Proponent is not cooperating in any manner in relation to the RFP with any other proponent responding to the RFP,

in each case, except as set out, in all material detail, in a separate section titled "Conflicts, Collusion, Lobbying" in the Proposal.

**9.4 Declaration as to Lobbying**

The Proponent confirms and warrants that:

- (a) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors is registered as a lobbyist under any lobbyist legislation in any jurisdiction in Canada or in the United States of America; and
- (b) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors has engaged in any form of political or other lobbying whatsoever with respect to the RFP or sought, other than through the submission of the Proposal, to influence the outcome of the RFP process,

in each case, except as set out, in all material detail, in a separate section titled "Conflicts, Collusion, Lobbying" in the Proposal.

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**10 GENERAL**

- (a) All of the terms of this Appendix 1 to this Proposal Form which by their nature require performance or fulfillment following the conclusion of the proposal process will survive the conclusion of such process and will remain legally enforceable by and against the Proponent and the Housing Agency and the Housing Agency.
- (b) The legal invalidity or unenforceability of any provision of this Appendix 1 will not affect the validity or enforceability of any other provision of this Appendix 1, which will remain in full force and effect.
- (c) The Proponent now assumes and agrees to bear all costs and expenses incurred by the Proponent in preparing its Proposal and participating in the RFP process.

**11 INDEPENDENT LEGAL ADVICE**

**THE PROPONENT ACKNOWLEDGES THAT IT HAS BEEN GIVEN THE OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE BEFORE SUBMITTING ITS PROPOSAL FORM, INCLUDING THIS APPENDIX 1.**

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**APPENDIX 2**

**QUESTIONNAIRE**

**(Intentionally Deleted)**

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**APPENDIX 3**

**COMMERCIAL PROPOSAL**

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**APPENDIX 4**

**PROPONENT'S REFERENCES**

Complete this Appendix 4 - Proponents References in the form set out below.

<b>Client Name # 1</b>	
<b>Address (Housing Agency and Country)</b>	
<b>Contact Name</b>	
<b>Title of Contact</b>	
<b>Telephone No.</b>	
<b>E-mail Address</b>	
<b>Length of Relationship</b>	
<b>Type of Goods and/or Services provided to this Client</b>	

<b>Client Name # 2</b>	
<b>Address (Housing Agency and Country)</b>	
<b>Contact Name</b>	
<b>Title of Contact</b>	
<b>Telephone No.</b>	
<b>E-mail Address</b>	
<b>Length of Relationship</b>	
<b>Type of Goods and/or Services provided to this Client</b>	

<b>Client Name # 3</b>	
<b>Address (Housing Agency and Country)</b>	
<b>Contact Name</b>	
<b>Title of Contact</b>	
<b>Telephone No.</b>	
<b>E-mail Address</b>	
<b>Length of Relationship</b>	
<b>Type of Goods and/or Services provided to this Client</b>	

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<b>Client Name # 4</b>	
<b>Address (Housing Agency and Country)</b>	
<b>Contact Name</b>	
<b>Title of Contact</b>	
<b>Telephone No.</b>	
<b>E-mail Address</b>	
<b>Length of Relationship</b>	
<b>Type of Goods and/or Services provided to this Client</b>	

<b>Client Name # 5</b>	
<b>Address (Housing Agency and Country)</b>	
<b>Contact Name</b>	
<b>Title of Contact</b>	
<b>Telephone No.</b>	
<b>E-mail Address</b>	
<b>Length of Relationship</b>	
<b>Type of Goods and/or Services provided to this Client</b>	

<b>Client Name # 6</b>	
<b>Address (Housing Agency and Country)</b>	
<b>Contact Name</b>	
<b>Title of Contact</b>	
<b>Telephone No.</b>	
<b>E-mail Address</b>	
<b>Length of Relationship</b>	
<b>Type of Goods and/or Services provided to this Client</b>	

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**APPENDIX 5**

**CERTIFICATE OF INSURANCE**

**(Intentionally Deleted)**

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**APPENDIX 6**

**DECLARATION OF SUPPLIER CODE OF CONDUCT COMPLIANCE**

Complete this Appendix 6 - Declaration of Supplier Code of Conduct Compliance in the form set out below.

**Purpose:**

**All proposed suppliers are to complete and submit this form to certify compliance with the supplier performance standards set out in the Supplier Code of Conduct.**

The City of Vancouver and the Housing Agency expects each supplier of goods and services to the City and the Housing Agency to comply with the supplier performance standards set out in City's Supplier Code of Conduct (SCC) <[http://vancouver.ca/policy\\_pdf/AF01401P1.pdf](http://vancouver.ca/policy_pdf/AF01401P1.pdf)>. The SCC defines minimum labour and environmental standards for City suppliers and their subcontractors.

Suppliers are expected to comply with the aforementioned standards upon submitting a tender, proposal, application, expression of interest or quotation to the Housing Agency, or have a plan in place to comply within a specific period of time. The Housing Agency reserves the right to determine an appropriate timeframe in which suppliers must come into compliance with these standards. To give effect to these requirements, an authorized signatory of each proposed vendor must complete the following declaration and include this declaration with its submission:

As an authorized signatory of \_\_\_\_\_ (*vendor name*), I declare that I have reviewed the SCC and to the best of my knowledge, \_\_\_\_\_ (*vendor name*) and its proposed subcontractors have not been and are not currently in violation of the SCC or convicted of an offence under national and other applicable laws referred to in the SCC, other than as noted in the table below (*include all violations/convictions that have occurred in the past three years as well as plans for corrective action*).

Section of SCC / title of law	Date of violation /conviction	Description of violation / conviction	Regulatory / adjudication body and document file number	Corrective action plan

I understand that a false declaration and/or lack of a corrective action plan may result in no further consideration being given to the submission of \_\_\_\_\_ (*vendor name*).

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

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**APPENDIX 7**

**CORPORATE SUSTAINABILITY LEADERSHIP QUESTIONNAIRE**

Complete this Appendix 7 – Corporate Sustainability Leadership Questionnaire in the form set out below.

Complete this Appendix 7 – Corporate Sustainability Leadership Questionnaire in the form set out below.

As part of the City’s Corporate Procurement Policy and related Supplier Code of Conduct described in Section 9.1 of Part A, all City vendors must meet minimum requirements related to ethical, social and environmental standards.

Beyond these basic requirements, the City would like to recognize vendors that are demonstrating leadership and innovation in sustainability. In order to be able to do so, the City requires that Proponents answer the following questions. The answers provided will be evaluated as part of the Proposal evaluation described in Section 8.0 of Part A.

Please keep in mind that these questions relate to your company’s internal operations and overall sustainability leadership.

The City may request that the Proponent provide additional information to support any of the responses provided.

If additional space is required, the Proponent may attach its response(s) to this Annex and reference the relevant question and section number.

**For all questions where the answer is ‘Yes’ and additional information is requested, if this information is not included in the proposal, the answer may not be evaluated.**

**For all questions where there is a word limit, responses are to be kept within this word limit. Information in excess of the word limit may not be evaluated.**

Questionnaire Structure

Section 1: Environmental Impact	Environmental or Sustainability Policy Reducing greenhouse gas (GHG) emissions Reducing waste Sustainable purchasing
Section 2: Social Impact (Optional to answer)	Living wage employer Workplace development programs

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	Supporting social enterprises Sustainable business
Section 3: Definitions	Definitions for key terms used in this Annex.

**SECTION 1: ENVIRONMENTAL IMPACT**

*This section of the leadership questionnaire addresses the following:*

- *Environmental or Sustainability Policy or Statement*
- *reducing greenhouse gas (GHG) emissions*
- *reducing waste*
- *sustainable purchasing*

1. Do you have a documented Environmental or Sustainability Policy or Statement?

Yes                       No

If no, go to question 2.

If yes, please address the following:

- a. Attach a copy of the policy or statement to your Proposal.
- b. If the policy is publicly available, please provide a link to the document:

\_\_\_\_\_

2. Does your company measure its greenhouse gas (GHG) emissions?

Yes                       No

If yes, state total annual GHG emissions (tCO<sub>2</sub>e): \_\_\_\_\_

3. Has your company adopted GHG reduction targets or goals?

Yes                       No

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If yes, state target(s) and year by which they will be achieved (e.g., 33% reduction by 2020):

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4. Do you report your GHG emissions to a third party? (e.g., Carbon Disclosure Project, Global Reporting Initiative, Climate Registry, Climate Smart, Ecobase, Offsetters, etc.)

Yes                       No

If yes, state the name of the 3<sup>rd</sup> party: \_\_\_\_\_

5. Does your company own buildings in Metro Vancouver?

Yes                       No

If no, skip to question 7.

If yes, describe efforts in the past three (3) years to improve the energy efficiency of owned buildings in Metro Vancouver with respect to each of the elements listed below. **Please limit answer to 400 words or less.**

- a. equipment and lighting upgrades (e.g., HVAC, water heaters, LED lighting);
- b. building envelope improvements (e.g., insulation, windows)
- c. staff conservation and engagement programs (e.g., turning off lights and computers, etc.)

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6. Has your company (or has any of your buildings) been recognized for building energy management excellence by a recognized third party such as BC Hydro Power Smart, BOMA BESt, LEED, Portfolio Manager Energy Star, etc.)?

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Yes                       No

If yes, state the name(s) of the 3<sup>rd</sup> party(ies) and type of recognition:

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7. Does your company own or lease fleet vehicles and/or heavy off-road equipment to be operated in Metro Vancouver? (Optional)

Yes                       No

In no, skip to question 9.

If yes, please address the following questions:

a) what size is your fleet (including heavy off-road equipment)?

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b) Describe actions in the past three (3) years to reduce the GHG emissions of vehicles and heavy equipment operated in Metro Vancouver. (Actions could include: purchase of low emissions vehicles, use of alternative fuels, deployment of telematics software; driver training programs, etc.). **Please limit answer to 250 words or less.**

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8. Does your company encourage employees to take more environmentally friendly transportation to get to work? (Optional)

Yes                       No

If yes, describe incentives in place to encourage employees to take more environmentally friendly transportation to get to work (e.g., car sharing, secure bike parking and on-site change facilities, public transit incentives). **Please limit answer to 250 words or less.**

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9. Describe any other initiatives undertaken in past three (3) years that have significantly reduced the GHG emissions of your operations. **Please limit answer to 250 words or less.** (Optional)

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10. Does your company measure the total amount of solid waste generated by your operations annually?

- Yes                       No

If yes, state annual solid waste figures (kg or tonnes): \_\_\_\_\_

11. Does your company have waste reduction and/or diversion targets or goals?

If yes, state targets and by what year they are to be achieved?

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12. Does your company have an office or operations recycling program in place?

- Yes                       No

If yes, which materials does your company recycle - **check only those that apply:**

- office paper
- plastic and glass containers
- soft plastic
- food waste/compostables
- batteries
- printer or toner cartridges
- Styrofoam

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- IT equipment / electronics / mobile devices
- clean wood (e.g., pallets)
- metals

13. Describe any other initiatives undertaken in past three (3) years that have significantly reduced waste from your operations. **Please limit answer to 250 words or less.**

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14. Does your company have a Sustainable or Ethical Purchasing Policy or a Code of Conduct for Suppliers that outlines minimum ethical labour standards that must be followed by suppliers?

- Yes                       No

If yes, please address the following:

- a. Attach a copy of the policy and/or code to the Proposal;
- b. If the policy or code of conduct is publicly available, please provide a link to document:

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15. Indicate which environmentally preferable and/or sustainable goods or services your company currently purchases – **check only those that apply:**

- Sustainable food items (e.g., Fairtrade coffee; organic produce; OceanWise seafood)
- Copy paper (e.g., 100 per cent post-consumer waste; Forest Stewardship Council certified; tree free)
- Janitorial supplies (e.g., ECOLOGO or Green Seal certified)
- IT equipment (e.g., EPEAT Gold, EnergyStar qualified)
- Office products (e.g., ECOLOGO; recycled; non-toxic)
- Printing services (e.g., Forest Stewardship Council certified paper and printer)
- Promotional / marketing items (e.g., fair labour practices; reusable; recyclable)
- Courier services (e.g., use energy efficient, low carbon or alternative fuel vehicles)
- Catering services (e.g., serve sustainable food; employ social enterprises; use reusable serving ware)
- Landscaping services (e.g., use energy efficient equipment; employ social enterprises)
- Other: (list)

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**SECTION 2: SOCIAL IMPACT (Optional)**

*This section of the leadership questionnaire addresses the following elements:*

- *living wage employer*
- *workplace development programs*
- *supporting social enterprises*
- *sustainable business*

1. Is your company already a certified Living Wage employer, or working towards becoming one? See definition of *Living wage employer* in Section 3 below.

Yes                       No

If yes, please state either:

- a) date of certification; OR
  - b) date by which you expect to become certified
- 
- 

2. Does your company provide employment and/or training opportunities for *person(s) with barriers to employment* (e.g., people with addictions, disabilities, mental health issues; people who are newcomers or refugees, etc.) that go beyond the hiring practices required by law? See definition of *person with barriers to employment* in Section 3 below.

Yes                       No

If yes, describe the program including the name of the non-profit organization or educational institution or government agency that you work with to identify potential trainees and employees; and the number of employees/trainees that work in your company.

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3. Does your company conduct business with, or support in other ways, one or more *social enterprises* (as defined in Section 3 below).

Yes                       No

If yes, name the social enterprise(s) and describe the nature of the business conducted and/or support provided.

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4. Is your company structure either of the following:

a. Social enterprise (as defined in Section 3 below)

Yes                       No

If yes, state the name of the registered non-profit or co-operative (including society and/or charitable number):

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b. Community Contribution Company (C3) (as defined in Section 3 below)

Yes                       No

5. Has your company's sustainability performance been reviewed or certified by a third party? (e.g., B Lab, ISO14001, SA8000, Social Fingerprint, etc.)

Yes                       No

If yes, state the name of the third party and date of certification or date of last review:

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6. Describe any additional social sustainability initiatives that demonstrate your company's commitment to the health and well-being of local communities. **Please limit answers to 250 words or less.**

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**SECTION 3: DEFINITIONS**

Living Wage Employer:

Living wage employers adhere to the following criteria:

- All employees – full-time, part-time and casual – are paid the current living wage rate for their region. See [www.livingwageforfamilies.ca](http://www.livingwageforfamilies.ca) for current Metro Vancouver and Fraser Valley living wage rates.
- The living wage rate calculation for an employer takes into account its employees' *total* compensation package (wage + benefits). If employees receive non-mandatory benefits, the living wage rate is reduced to take this into account. External contract staff (not direct employees) who provide services to their employer on a regular and ongoing basis must also be paid a living wage.
- Employees who receive incentive-based pay (tips) or commissions can be paid less than a living wage, provided their total earnings – including incentive-based pay and/or commissions – equal or exceed the living wage.

Social Enterprise:

“Social enterprises are businesses owned by non-profit organizations, that are directly involved in the production and/or selling of goods and services for the [combined] purpose of generating income and achieving social, cultural, and/or environmental aims (Social Enterprise Council of Canada).” See [www.socialenterpriseinCanada.ca](http://www.socialenterpriseinCanada.ca).

In addition to having the aforesaid combined purpose, to qualify as a “Social Enterprise” for purposes hereof, an entity must:

- be a business operated by a registered non-profit or community services co-operative;
- have a product or service that it sells to customers; and
- have a defined social and/or environmental mandate.

Person with Barriers to Employment:

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A “person with barriers to employment” is someone who faces one or more circumstances that can lead to underemployment or unemployment. There are a wide range of circumstances that can create barriers to employment including but not limited to: addictions, disabilities, mental health issues, and being a newcomer or refugee. For purposes hereof, to qualify as a “person with barriers to employment”, the employee or trainee must be participating in a recognized, pre-approved employment program for person(s) with barriers to employment run by a non-profit organization or educational institution or government agency.

Community Contribution Company (C3):

“Community Contribution Company” means a corporation formed under the laws of British Columbia that includes in its articles the following statement:

This company is a community contribution company, and, as such, has purposes beneficial to society. This company is restricted, in accordance with Part 2.2 of the *Business Corporations Act*, in its ability to pay dividends and to distribute its assets on dissolution or otherwise.

Or, a company incorporated under another jurisdiction that includes in its articles substantively similar restrictions related to dividends and distribution of assets.

Refer to [www.fin.gov.bc.ca/prs/ccc](http://www.fin.gov.bc.ca/prs/ccc) for more information.

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**APPENDIX 8**

**PERSONAL INFORMATION CONSENT FORM(S)**

Complete these copies of Appendix 8 - Personal Information Consent Form(s), in the form set out below, for each key personnel for whom a CV or other information regarding employment history and qualifications has been included in the Proposal.

**PERSONAL INFORMATION CONSENT FORM**

**RFP**

**Reference #PSVAHA2017-05**

**Title: Development Partner for 1190 Burrard Street, 1210 Seymour Street and 177 West Pender Street**

With the provision of my signature at the foot of this statement I, \_\_\_\_\_

\_\_\_\_\_ (Print Name)

consent to the indirect collection from \_\_\_\_\_

\_\_\_\_\_ (Print Name of Proponent)

of my personal information in the form of a work history, resume or summary of qualifications.

In consenting to this indirect collection, I understand that my personal information, so collected, will be used by the Housing Agency for the sole purpose of evaluating the submitted response to the above-noted procurement process. I understand further that my personal information, once collected by the City and the Housing Agency, will be handled by the City and the Housing Agency in accordance with the provisions of the (BC) *Freedom of Information and Protection of Privacy Act*.

_____ )		_____ )
Signature	)	Date

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**PERSONAL INFORMATION CONSENT FORM**

**RFP**

**Reference #PSVAHA2017-05**

**Title: Development Partner for 1190 Burrard Street, 1210 Seymour Street and 177 West Pender Street**

With the provision of my signature at the foot of this statement I, \_\_\_\_\_

\_\_\_\_\_ (Print Name)

consent to the indirect collection from \_\_\_\_\_

\_\_\_\_\_ (Print Name of Proponent)

of my personal information in the form of a work history, resume or summary of qualifications.

In consenting to this indirect collection, I understand that my personal information, so collected, will be used by the Housing Agency for the sole purpose of evaluating the submitted response to the above-noted procurement process. I understand further that my personal information, once collected by the City and the Housing Agency, will be handled by the City and the Housing Agency in accordance with the provisions of the (BC) *Freedom of Information and Protection of Privacy Act*.

\_\_\_\_\_  
Signature

)  
)  
)

\_\_\_\_\_  
Date

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**PERSONAL INFORMATION CONSENT FORM**

**RFP**

**Reference #PSVAHA2017-05**

**Title: Development Partner for 1190 Burrard Street, 1210 Seymour Street and 177 West Pender Street**

With the provision of my signature at the foot of this statement I, \_\_\_\_\_

\_\_\_\_\_ (Print Name)

consent to the indirect collection from \_\_\_\_\_

\_\_\_\_\_ (Print Name of Proponent)

of my personal information in the form of a work history, resume or summary of qualifications.

In consenting to this indirect collection, I understand that my personal information, so collected, will be used by the Housing Agency for the sole purpose of evaluating the submitted response to the above-noted procurement process. I understand further that my personal information, once collected by the City and the Housing Agency, will be handled by the City and the Housing Agency in accordance with the provisions of the (BC) *Freedom of Information and Protection of Privacy Act*.

\_\_\_\_\_  
Signature

)  
)  
)

\_\_\_\_\_  
Date

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**PERSONAL INFORMATION CONSENT FORM**

**RFP**

**Reference #PSVAHA2017-05**

**Title: Development Partner for 1190 Burrard Street, 1210 Seymour Street and 177 West Pender Street**

With the provision of my signature at the foot of this statement I, \_\_\_\_\_

\_\_\_\_\_ (Print Name)

consent to the indirect collection from \_\_\_\_\_

\_\_\_\_\_ (Print Name of Proponent)

of my personal information in the form of a work history, resume or summary of qualifications.

In consenting to this indirect collection, I understand that my personal information, so collected, will be used by the Housing Agency for the sole purpose of evaluating the submitted response to the above-noted procurement process. I understand further that my personal information, once collected by the City and the Housing Agency, will be handled by the City and the Housing Agency in accordance with the provisions of the (BC) *Freedom of Information and Protection of Privacy Act*.

\_\_\_\_\_  
Signature

)  
)  
)

\_\_\_\_\_  
Date

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**APPENDIX 9**

**SUBCONTRACTORS**

**(Intentionally Deleted)**

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**APPENDIX 10**

**PROPOSED AMENDMENTS TO FORM OF AGREEMENT**

Complete this Appendix 10 – Proposed Amendments to Form of Agreement in the form set out below by detailing any proposed amendments to the Form of Agreement. If no amendments to the Form of Agreement are proposed, state “none”. It is at the Housing Agency’s sole discretion whether or not these proposed amendments will be considered for the Form of Agreement.

<b>Section / General Condition</b>	<b>Proposed Amendment</b>	<b>Rationale and Benefit</b>

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**APPENDIX 11**

**FINANCIAL STATEMENTS**

Attached as Appendix 11 to this Form of Proposal the Proponent's financial statements, prepared by an accountant and covering at least the prior two years.

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**APPENDIX 12**

**PROOF OF WORKSAFEBC REGISTRATION**

Attached as Appendix 12 to this Form of Proposal proof of valid WorkSafeBC registration.

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**APPENDIX 13**

**CONFLICTS; COLLUSION; LOBBYING**

Complete this Appendix 13 – Conflicts; Collusion; Lobbying in the form set out below by setting out any exceptions to the declarations in Section 9 of the Legal Terms and Conditions attached as Appendix 1 to this Form of Proposal or indicate that there are no exceptions, as applicable.

Exceptions to Declaration as to no Conflict of Interest in RFP Process (Section 9.1 of Legal Terms and Conditions)	
Exceptions to Declaration as to No Conflict of Interest Respecting Proposed Supply (Section 9.2 of Legal Terms and Conditions)	
Exceptions to Declaration as to No Collusion (Section 9.3 of Legal Terms and Conditions)	

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PENDER STREET  
PART D - FORMS OF AGREEMENT

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PART D

FORMS OF AGREEMENT

This Part D of the RFP is made up of the following appendices:

- Appendix A to Part D: Lease Agreement
- Appendix B to Part D: Development Agreement

While each of these forms of agreement are presented in their substantial forms, the City envisions finalizing the terms of each form of agreement with a successful Proponent, if any.

Proponents should clearly state their deviations or variations, if any, to the terms of the Development Agreement, the Lease, or both, as applicable, as set out in Part C Appendix 10.

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PART D

FORMS OF AGREEMENT

Appendix A to Part D

Lease Agreement

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WHEREAS:

- A. The Lessee wishes to provide housing for Eligible Occupants and requires a lease of the Lands for this purpose.
- B. The Lessor is the owner of the Lands and has agreed to lease to the Lessee the Lands for the Term upon the terms, conditions and provisos herein so that the Lessee may construct the Building and otherwise use, occupy and enjoy the Lands.

WITNESS that in consideration of the rents reserved and the covenants and agreements set forth below, the parties agree as follows:

IN CONSIDERATION OF THE GOOD AND VALUABLE CONSIDERATION PAID TO THE LESSOR BY THE LESSEE THE LESSOR HEREBY DEMISES AND LEASES UNTO THE LESSEE AND THE LESSEE DOES HEREBY TAKE AND RENT THE LANDS, TO HAVE AND TO HOLD THE LANDS UNTO THE LESSEE FOR AND DURING THE TERM AS HEREIN PROVIDED.

ARTICLE 1  
DEFINITIONS AND INTERPRETATION

- 1.1 Capitalized terms used in this Lease have the meanings specified in this section 1.1, unless otherwise provided in this Lease:
- (a) "Additional Rent" means all sums, costs, expenses and other amounts, if any, payable by the Lessee to the Lessor pursuant to this Lease, including, without limitation, Realty Taxes, payments in lieu of Realty Taxes, Utilities and all sums payable by way of indemnity under this Lease, but excluding Basic Rent;
  - (b) "Alterations" means all alterations, changes, replacements, substitutes, additions and improvements to the Lands and Building;
  - (c) "Architect" means the architect qualified as such pursuant to the laws of the province of British Columbia who is supervising the design, construction, repair, renovation and/or reconstruction of the Building;
  - (d) "Basic Rent" means the net basic rent as described in the General Instrument, together with any other and additional amounts which are herein expressed to be added to and made part of Basic Rent, other than Additional Rent;
  - (e) "Building Permits" means any building permits issued by the City for the Building, together with all amendments, modifications or replacements thereof, and all plans, drawings and specifications related thereto, which are approved by the City;
  - (f) "Building" means the multiple unit residential building and all other structures to be constructed on the Lands, together with all Alterations or repairs thereto

and all improvements from time to time constructed upon or affixed or appurtenant to the Lands;

- (g) "City" means the municipality and corporation of the City of Vancouver
- (h) "Commencement of Construction" means the later of the date when the first Building Permit for the first Building to be constructed is issued to the Lessee by the City and the date when the Lessee's contractor commences any work on the Lands related to construction of the first Building to be constructed;
- (i) "CRU Units" means the at-grade commercial retail units in the Building as contemplated in the applicable Building Permits issued in respect of the Building;
- (j) "Development Agreement" means the Development Agreement between the Lessor and the Lessee dated \_\_\_\_\_, a copy of which is attached hereto as Schedule B;
- (k) "Development Permits" means the development permits for the Building, together with all amendments, modifications or replacements thereof, and all plans, drawings and specifications related thereto, which are approved by the City;
- (l) "Eligible Occupant" means a person who meets the income or housing need criteria prescribed in Schedule A hereto;
- (m) "General Instrument" means the Form C under the *Land Title (Transfer Forms) Regulation* under the *Land Titles Act* (British Columbia), and all schedules and addenda to the Form C;
- (n) "Lands" means all of the Lessor's interest in the lands described in the General Instrument, including every incidental right, benefit or privilege attaching to that land or running with it;
- (o) "Lease" means the General Instrument together with these Terms of Instrument;
- (p) "Lease Commencement Date" means the commencement date of the Lease set out in the General Instrument;
- (q) "Lessee" means \_\_\_\_\_, and includes any person to whom the Lessee assigns this Lease in accordance with the terms of this Lease;
- (r) "Lessor" means the City of Vancouver;
- (s) "Losses" means all manner of liabilities, actions, statutory or other proceedings, judgments, investigations, claims, losses, damages, orders, fines, penalties, expenses, professional and other fees and disbursements, and costs;

- (t) "Mortgage" means a registered mortgage or registered mortgages granted by the Lessee in accordance with section 16.1 upon or in respect of the interest of the Lessee in the Lands and the Building or any part thereof and includes any deed of trust and mortgage to secure any bonds or debentures issued thereunder;
- (u) "Mortgagee" means a mortgagee or mortgagees under a Mortgage and includes any trustee for bondholders or debenture holders under a deed of trust and mortgage to secure any bonds or debentures issued thereunder;
- (v) "Permitted Encumbrances" means the charges and encumbrances, if any, named in the General Instrument as Permitted Encumbrances, the Mortgage and any other charges specifically approved in writing by the Lessor;
- (w) "Personnel" of a party means the elected officials and directors, as applicable, officers, employees, servants and agents of that party;
- (x) "Prime Rate" means the floating annual percentage rate of interest established from time to time by the main branch of the Bank of Montreal located in Vancouver, British Columbia, or its successor, as the base rate that will be used to determine rates of interest charged by it for Canadian dollar loans to customers in Canada and designated by the Bank of Montreal as its "prime rate";
- (y) "Realty Taxes" means all assessments for taxes, rates, duties (including school taxes, local improvement rates and other charges levied pursuant to the *Hospital District Finance Act* (British Columbia), the *Municipal Finance Authority Act* (British Columbia) or otherwise) and all other charges for services used in or supplied to the Lands and the Building (including penalties and interest) that now are or will or may be levied, rated, charged or assessed against the Lands, the Building, and all other structures, machinery, equipment, facilities and other property of any nature whatsoever located thereon or therein, charged by any municipal, parliamentary, legislative, regional, school or other authority during the Term;
- (z) "Rental Housing" means a dwelling unit which is not occupied by the registered or beneficial owner of the same, but which is made available by such owner to the general public, at arm's length, for use as rental accommodation on a month-to-month or longer basis in accordance with this Lease, reasonably prudent landlord-tenant practices for rental residential accommodation and any and all laws applicable thereto;
- (aa) "Term" means sixty (60) years commencing on the Lease Commencement Date;
- (bb) "Trustee" means a trust company duly authorized to carry on business in the province of British Columbia and appointed by the Lessor for the purposes of Article 9 of this Lease; and
- (cc) "Utilities" means all charges, rates and levies on account of utilities, including for heat, electricity, gas, telephone, television, internet and other costs and

expenses of a similar nature, and, if not included in Realty Taxes, for water and garbage collection.

- 1.2 Any reference in this Lease to legislation will be deemed to include all regulations thereto, all amendments and re-enactments thereof and all successor legislation.

## ARTICLE 2 PAYMENT OF RENT

### 2.1 Basic Rent

The Lessee covenants and agrees with the Lessor to pay to the Lessor as rent the Basic Rent for the Term on or before the Lease Commencement Date.

### 2.2 Net Lease

All Basic Rent and Additional Rent required to be paid by the Lessee hereunder will be paid at such location as the Lessor may stipulate from time to time without any deduction, abatement or set-off whatsoever, it being the intention of this Lease that:

- (a) all expenses, costs, payments and outgoings incurred in respect of the Lands, the Building and any other improvements on the Lands or for any other matter or thing affecting the Lands, will, unless otherwise expressly stipulated herein to the contrary, be borne by the Lessee; and
- (b) the Basic Rent and Additional Rent payable under this Lease will be absolutely net to the Lessor and free of all abatements, set-off or deduction of any costs, payments and outgoing of every nature arising from or related to the Lands, the Building, or any other improvements on the Lands, and the Lessee will pay or cause to be paid all such costs, payments and outgoings.

### 2.3 Interest on Amounts in Arrears

When the Basic Rent, Additional Rent or any other amount payable hereunder by the Lessee to the Lessor is in arrears, such amount will bear interest at the Prime Rate plus three percent (3%) per annum, calculated and compounded monthly not in advance, from the date due until paid. Notwithstanding the foregoing, this section will not apply to defaults under sections 3.1 and 3.2.

## ARTICLE 3 PAYMENT OF TAXES

### 3.1 Payment of Realty Taxes if Lands Not Exempt

Save as otherwise provided in section 3.2, the Lessee will, during the Term, no later than the day immediately preceding the date or dates on which the Realty Taxes become due and payable, pay and discharge or cause to be paid and discharged the Realty Taxes and, if requested by the Lessor, will deliver to the Lessor for inspection receipts for payments of the Realty Taxes within fourteen (14) days of such payment.

Not later than thirty (30) days following receipt of any tax assessment or notice the Lessor will deliver a copy of such assessment or notice to the Lessee.

### 3.2 Payment in Lieu of Realty Taxes if Lands Exempt

The Lessee covenants and agrees with the Lessor that if during the Term all or any part of the Lands, Building, structures, machinery, equipment and facilities thereon and therein and any other property of any nature whatsoever thereon and therein are exempt from Realty Taxes in whole or in part, then the Lessee will, in each and every year during the Term that such exemption occurs, pay to the Lessor as Additional Rent, at the same time as Realty Taxes would be payable if such exemption were not available, an amount equal to the amount that would be payable as Realty Taxes if such exemption were not available.

### 3.3 Right to Appeal Assessment

The Lessee will have the right from time to time to appeal, in its own or the Lessor's name, any assessment of the Lands or Building or any Realty Taxes referred to in sections 3.1 and 3.2, provided that such appeal will be at the sole expense of the Lessee.

### 3.4 Business Tax and License Fees

The Lessee covenants with the Lessor to pay or cause to be paid during the Term when due every tax and permit and license fee (including penalties and interest) in respect of any and every business carried on, in or upon the Lands or Building or in respect of the use or occupancy of the Lands or Building by the Lessee (and any and every sublessee, permittee and licensee), other than such taxes as corporate income, profits or excess profit taxes assessed upon the income of the Lessee (or such sublessee, permittee and licensee), whether such taxes or permit and license fees are charged by any municipal, parliamentary, legislative, regional or other authority.

### 3.5 Other Taxes

The Lessee will pay when due all goods and services taxes, value-added taxes, sales taxes and consumption based taxes, rates, levies and assessments, including penalties and interest, that are from time to time payable by the Lessee as a result of, or that would not be payable but for, its rights and obligations contained in this Lease, including but without derogating from the generality of the foregoing, such taxes, rates, levies and assessments payable as a result of any payment obligations herein of the Lessee to the Lessor.

### 3.6 Pro-rating Obligations

In the first and last years of the Term, the Lessee's obligations under sections 3.1 and 3.2 will be pro-rated according to the portion of the year included in the Term, such pro-rating to be on a per diem basis.

ARTICLE 4  
CONSTRUCTION OF BUILDING

4.1 Construction Green Light Pre-Conditions

(a) Definitions

- (i) For the purposes of this section 4.1, the following terms will have the meanings given to them in the Development Agreement: (i) "Affordability Requirements"; (ii) "Construction Phase Obligations"; (iii) "Debt Financing"; (iv) "Design Requirements"; (v) "Project"; (vi) "Project Design"; and (vii) "Project Schedule".
- (ii) For the purposes of this section 4.1 the following terms shall have the following meanings:
  - A. "Class A Construction Cost Estimate" means an estimate of the costs of construction for the Project based on the completed Project Design, which shall be presented in elemental format and include labour and material costs, allowance for all costs resulting from the Project Schedule, all actual associated costs, including cash allowances, contingencies, allowances for design, escalation, market conditions and anticipated amendment amounts as applicable;
  - B. "Construction Green Light" means the event that occurs when all Construction Green Light Pre-Conditions are satisfied or waived by the Lessee and Lessor;
  - C. "Construction Green Light Deadline" is \_\_\_\_\_, unless extended in writing by the Lessor;
  - D. "Construction Green Light Notice" means the notice to be issued by the Lessor pursuant to Section 4.1 when the Construction Green Light Pre-Conditions have been satisfied;
  - E. "Construction Green Light Pre-Conditions" means the pre-conditions to a Construction Green Light which the Lessee must satisfy prior to the Construction Green Light Deadline as further set out in Section 4.1; and
  - F. "Construction Green Light Pro Forma" means a revised Pro Forma for the Project incorporating current financial information just prior to Construction Green Light, based upon completion of the Project Design for the Project, a Market Rent Analysis that was conducted or updated within the previous 6 months, Class A Construction Costs Estimates, the most-up-to-date loan agreements and construction pricing for the Project, and which sets out cash flows for the Project in the most accurate way feasible at such point in time.

## (b) Obligation to Satisfy Conditions

The Lessor and Lessee will work together cooperatively to expeditiously satisfy the following Construction Green Light Pre-Conditions on or before the Construction Green Light Deadline. Despite the Construction Green Light Deadline, the Lessor will in good faith consider any request by the Lessee for an extension to the Construction Green Light Deadline, provided that the Lessee has been acting in a commercially reasonable manner in attempting to satisfy the Construction Green Light Pre-Conditions.

## (c) Description of Construction Green Light Pre-Conditions

The following Construction Green Light Pre-Conditions must be met or waived in order for the Construction Green Light Notice to be issued:

- (i) the Project Design complies with the Design Requirements;
- (ii) the Lessee has satisfied all pre-conditions of the Debt Financing so that the Lessee is fully legally entitled to receive the loan proceeds, subject only to conditions, if any, previously approved by the Lessor;
- (iii) a Development Permits has been issued for the Project; and
- (iv) the Construction Green Light Pro Forma has been prepared by the Lessee and approved by the Lessor as meeting or exceeding the Affordability Requirements.

Following the satisfaction of the Construction Green Light Pre-Conditions, the Lessee will continue to carry out the Project in accordance with the requirements of the Development Agreement.

## (d) Benefit/Waiver of Construction Green Light Pre-Conditions

All Construction Green Light Pre-Conditions are for the mutual benefit of both the Lessor and the Lessee and no Construction Green Light Pre-Condition may be waived unless both parties agree in writing to waive same.

## (e) Satisfaction of Construction Green Light Pre-Conditions

Upon the Lessor confirming the satisfaction of the Construction Green Light Pre-Conditions, the Lessor will, within 5 business days, issue the Construction Green Light Notice and Construction Green Light will be deemed to have occurred as of the date of such Construction Green Light Notice, and the parties will then remain legally bound to comply with this Lease and Construction Phase Obligations (as set out in the Development Agreement). If the Lessor becomes obligated to issue, and for any reason neglects or fails to issue the Construction Green Light Notice, within the above-stipulated time period, then the Construction Green Light Notice will be deemed to have been issued as at 12:01 AM on the 6th business day following satisfaction of the Construction Green Light Pre-Conditions.

## (f) Failure to Meet Construction Green Light Pre-Conditions

In the event that the Construction Green Light Pre-Conditions are not satisfied and the Construction Green Light Notice is not issued on or before the Construction Green Light Deadline then this Lease will (subject only to section 4.1(a) above) be irrevocably deemed to be cancelled and will have no further legal force or effect except for those provisions which by their nature are intended to survive such cancellation such as by way of example only and without limitation, each party's obligations to pay those costs for which they assumed liability under this Lease and under the Development Agreement.

## 4.2 Lessee to Construct Building

Subject to section 4.1, the Lessee will construct the Building, together with other facilities ancillary thereto and connected therewith, on the Lands in substantial accordance with the drawings, specifications (including materials to be used), elevations, location on the Lands and exterior decoration and design and all other documents and information upon which the issuance of the Building Permits by the City are based and that have been approved by the Lessor, and are in compliance with the requirements of the applicable Development Permit. No changes will be made to such drawings, specifications, elevations, location, exterior decoration and design, other documents or information, or to the requirements of such Building Permit or Development Permit, without the approval of the Lessor.

## 4.3 Substantial Completion of Building

For the purposes of this Article 4, each Building will be deemed to have been substantially completed when the Architect has certified to, or otherwise satisfied, the Lessor that, with respect to the Building:

- (a) all work of a structural nature has been properly completed;
- (b) all building equipment and services, including elevators (if any), heating systems and air-conditioning systems (if any), and utilities have been completed, are operating properly and are available for use by tenants of the Lessee, and all lobbies, stairwells and other areas intended for the common use of tenants of the Lessee are completed except for work of a superficial nature, which is both minor in character and of a type that, owing to the likelihood of damage, may reasonably be deferred until the Building is partially or substantially occupied by tenants of the Lessee;
- (c) all building bylaws and regulations of the City have been complied with by the Lessee;
- (d) all rentable space is completed for occupancy except for work of a superficial nature that is dependent upon unascertained requirements of individual tenants of the Lessee, and work that is reasonably and customarily performed by tenants of the Lessee;

- (e) all areas are clean and all surplus building material and rubbish have been removed;
- (f) the Building is in a condition in which it can be occupied by tenants of the Lessee, and any work that is still unfinished can be completed promptly and is work the incompletion of which will not be objectionable to a tenant of the Lessee acting reasonably;
- (g) the Building has been constructed in all respects in a good and workmanlike manner and in accordance with the drawings and specifications, location on the Lands and the exterior decoration and design approved in writing by the Lessor, and in compliance with the Development Permit and all Building Permits issued by the City; and
- (h) a certificate of completion has been issued in respect of the Building pursuant to the *Builders Lien Act* (British Columbia).

#### 4.4 Termination of Lease on Failure to Construct

Subject to sections 4.7 and 18.2 and Article 23, the Lessee agrees with the Lessor that if Commencement of Construction for the first Building to be constructed has not taken place within one hundred and eighty (180) days of the Lease Commencement Date, or if construction of the last Building to be constructed is not substantially completed in accordance with the requirements of section 4.2 by the third anniversary of the Lease Commencement Date, the Lessor will have the option at any time thereafter to terminate this Lease, and in such event this Lease will terminate and be of no further force or effect and without any reimbursement or compensation to the Lessee, unless the Lessor consents in writing to extend the deadline for Commencement of Construction or substantial completion of construction, as the case may be, such consent not to be unreasonably withheld.

#### 4.5 Landscaping

Within one hundred and eighty (180) days of substantial completion of the Building, the Lessee will landscape the Lands in substantial accordance with the drawings, specifications (including materials to be used), elevations, location on the Lands and exterior decoration and design and all other documents and information upon which the issuance of the Building Permits by the City are based, and thereafter the Lessee will keep and maintain the landscaping of the Lands to a standard acceptable to a skilled gardener selected by the Lessor.

#### 4.6 Alterations After Substantial Completion

After substantial completion of each Building, the Lessee will not make or permit to be made any Alterations affecting the structure of the Building or the exterior appearance of the Building without the written approval of the Lessor, which approval the Lessor will not unreasonably withhold. No Alterations involving an estimated cost of more than Two Hundred Thousand Dollars (\$200,000.00) (in 2014 dollars) will be undertaken until the Lessee has submitted or caused to be submitted to the Lessor such drawings, specifications (including the materials to be used), elevations (where

applicable), locations (where applicable), exterior decoration and design and such other documentation and information as the Lessor may request in connection with the proposed Alterations, and until all of the same have been approved in writing by the Lessor, which approval the Lessor will not unreasonably withhold. The Lessee covenants and agrees with the Lessor that, subject to section 4.7, all Alterations undertaken by or for the Lessee once begun will be prosecuted with due diligence to completion.

#### 4.7 Unavoidable Delays

- (a) Subject to the exceptions set out in Section 4.7(c), time periods for the performance under this Lease will be extended for periods of time during which the performance is delayed or prevented due to an Unavoidable Delay.
- (b) An "Unavoidable Delay" means any circumstances beyond the parties' reasonable control such as failure to obtain any required regulatory approval or other governmental action impeding the Project, acts of God, strikes/lockouts, war, or other strife. However, despite the preceding sentence, an "Unavoidable Delay" does not include any lockouts, strikes or other disputes between the Lessor or the Lessee and their respective employees.
- (c) This Section 4.7 does not apply to the performance of any obligations of the Lessee to pay money in connection with this Lease.
- (d) Whenever the Lessee is aware of an event or any circumstance which constitutes or could constitute an Unavoidable Delay, it will promptly provide the Lessor with a written notice of:
  - (i) the particulars of the cause of any anticipated Unavoidable Delay,
  - (ii) the anticipated length of the Unavoidable Delay and
  - (iii) steps that the Lessee intends to take to mitigate or overcome any delays caused by the actual or expected Unavoidable Delay.

### ARTICLE 5 BUILDERS LIENS

#### 5.1 Builders Liens

In connection with all labour performed on or materials supplied to the Lands, including but not limited to the construction of the Building, the Lessee will comply with, and will cause any contractor hired by it to comply with, the provisions of the *Builders Lien Act* (British Columbia), and with all other statutes applicable in connection therewith and in force from time to time, including any provision or statute requiring or permitting the retention of portions of any sums payable by way of holdbacks.

## 5.2 Discharge of Builders Liens

If and whenever any builders lien, or other lien or claim arises or is filed against the Lessor's interest in the Lands in connection with work, labour, services or materials supplied to or for the Lessee or for the cost of which the Lessee may in any way be liable, the Lessee will, within fifteen (15) days after receipt of notice of such lien or claim, procure the discharge thereof, and the discharge of any certificate of pending litigation registered in respect of any such lien or claim, by payment or giving security or in such other manner as may be required or permitted by law; provided, however, that in the event of a bona fide dispute by the Lessee of the validity or correctness of any claim for any such lien, the Lessee will not be bound by the foregoing, but will be entitled to defend against the same in any proceedings brought in respect thereof after first paying into a court of competent jurisdiction the amount claimed or sufficient security therefor, and such costs as the court may direct.

## 5.3 Notice by Lessor

Pursuant to section 3(2) of the *Builders Lien Act*, the Lessor may file in the Land Title Office notice of its fee simple interest in the Lands and for all purposes of this Lease the construction of the Building by the Lessee will be deemed not to be done at the request of the Lessor.

## ARTICLE 6 RESTRICTIONS ON OPERATIONS AND USE

### 6.1 Restricted Use

Unless otherwise agreed to in writing by the Lessor, the Lessee covenants and agrees with the Lessor that neither the Lands nor Building nor any part of the Lands or Building will be used for any purpose except:

- (a) the provision of Rental Housing in accordance with the requirements set out in Schedule A hereto and the Operating Agreement; and
- (b) in the case of the CRU Units, subletting to commercial or retail tenants for market rent;

subject always to the laws, bylaws, regulations and permits governing the use of the Lands and Building from time to time. Except as provided immediately above, neither the Lands nor Building nor any part of the Lands or Building will be used for business, trade or manufacture without the written approval of the Lessor, which approval the Lessor may arbitrarily withhold.

### 6.2 No Subdivision

The Lessee covenants that it will not subdivide the Lands or the Building pursuant to the *Strata Property Act* (British Columbia) or the *Land Title Act* (British Columbia).

### 6.3 Intentionally Deleted

### 6.4 Permitted Encumbrances

The Lessor and the Lessee covenant and agree that, during the Term, the Lessee, at its expense, will perform and observe all of the obligations of the Lessor and may enjoy all of the rights of the City as Lessor (but not those rights of the City in its regulatory capacity) set out in the Permitted Encumbrances. None of the Permitted Encumbrances will merge or be deemed to have merged with the Lessor's title to the Lands, and accordingly all Permitted Encumbrances will be deemed to be in full force and effect. The Lessor will execute such documents as might reasonably be requested by the Lessee to enable it to comply with its obligations and to enjoy its rights in respect of the Permitted Encumbrances. The Lessee further covenants and agrees with the Lessor that if the City exercises any of its rights in its regulatory capacity under the Permitted Encumbrances, such exercise will not be a breach of the Lessor's covenant for quiet enjoyment.

### 6.5 Housing Requirements

The Lessee shall comply with the requirements set out in Schedule A hereto.

## ARTICLE 7 REPAIRS AND MAINTENANCE

### 7.1 Lessor Not Obligated to Repair

Pursuant to this Lease, the Lessor will not be obliged to furnish any services or facilities or to make repairs or Alterations in or to the Lands or the Building, and the Lessee hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Lands and the Building and all expenses related thereto.

### 7.2 Repairs by the Lessee

Reasonable wear and tear is not excepted and the Lessee will periodically replace or repair any part of the Lands and Building which become subject to reasonable wear and tear with the express intent that the Lands and Building will be substantially in the same condition as at the Lease Commencement Date:

- (a) the Lessee at the Lessee's cost and expense will, during the Term, put and keep in good order and condition, or cause to be put and kept in good order and condition, the Lands and Building (and any equipment located thereon and therein), both inside and outside, including but not limited to fixtures, walls, foundations, roofs, vaults, stairways, elevators (if any) and similar devices, heating and air conditioning equipment, sidewalks, yards and other like areas, water and sewer mains and connections, water, steam, gas and electric pipes and conduits, and all other fixtures and appurtenances to the Lands and the Building and machinery and equipment used or required in the operation thereof, whether or not enumerated herein, and will, in the same manner and to the same extent as a prudent owner, make any and all necessary repairs

and, subject to section 4.6, Alterations, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise, and keep the Building and any and all fixtures and equipment therein fully usable for the purposes for which the Building was constructed. Such repairs and Alterations will be in all respects to a standard at least substantially equal in quality of material and workmanship to the original work and material in the Building, and will in each case be performed only in accordance with all applicable terms and conditions of the Permitted Encumbrances;

- (b) the Lessee will not commit or suffer waste or injury to the Lands or the Building or any part thereof;
- (c) the Lessee will not injure or disfigure the Lands or the Building or permit them to be injured or disfigured in any way, and at the expiration or earlier termination of this Lease, the Lessee will, except as otherwise expressly provided herein, surrender and deliver up the Lands with the Building, and the fixtures, appurtenances and equipment thereon and therein, or any replacements or substitution therefor, in good order and condition; and
- (d) if the Lessee does not fulfil its obligations set out in this Article 7, the Lessor, through their agents, employees, contractors and subcontractors, may, but will not be obliged to, enter (without hindrance by the Lessee) upon the Lands and the Building as required for the purpose of making any repairs necessary to put the Lands and the Building in good order and condition, provided that the Lessor will make such repairs only after giving the Lessee not less than thirty (30) days written notice of its intention to do so, except in the case of an emergency when no notice will be required. Any costs and expenses (including overhead costs) incurred by the Lessor in making such repairs to the Lands and Building will be reimbursed to the Lessor, by the Lessee on demand, together with interest at the Prime Rate plus three percent (3%) per annum, calculated and compounded monthly, from the date incurred until the date paid.

### 7.3 Removal of Ice and Snow from Sidewalks

The Lessee covenants and agrees with the Lessor that if the Lessee at any time during the Term fails to keep the public sidewalk adjacent to the Lands reasonably clean from ice and snow during the times and to the extent lawfully required of an owner, the Lessor, through its agents, employees, contractors and subcontractors, may remove such ice and snow and the Lessor will not be required to give the Lessee any notice of its intention to do so. Any costs and expenses incurred by the Lessor in removing such ice and snow will be reimbursed to the Lessor by the Lessee on demand, together with interest at the Prime Rate plus three percent (3%) per annum, calculated and compounded monthly, from the date incurred until paid.

ARTICLE 8  
ADDITIONAL RENT

8.1 All Defaults in Payment as Additional Rent

If the Lessee defaults in the payment of any sums required to be paid by it pursuant to the terms of this Lease, or fails to fulfil any of its obligations under this Lease, the Lessor may (but will be under no obligation to) pay such sums or fulfil such obligations on behalf of the Lessee, and any losses, costs, charges and expenses suffered by the Lessor as a result, including sums payable by way of indemnity, whether or not expressed in this Lease to be rent, may at the option of the Lessor be treated as and deemed to be Additional Rent, in which event the Lessor will have all remedies for the collection of such sums, costs, expenses or other amounts when in arrears as are available to the Lessor for the collection of rent in arrears.

ARTICLE 9  
INSURANCE

9.1 Insurance During Construction of Building

Prior to the Commencement of Construction of the Building, and throughout the entire period of construction until substantial completion of the applicable Building pursuant to section 4.3, the Lessee will effect or will cause its contractor or contractors to effect and maintain in full force the following insurance coverage for the Building:

- (a) wrap-up liability insurance with limits of not less than Five Million Dollars (\$5,000,000), or such other amount as the Lessor may require from time to time, per occurrence, issued in the joint names of the Lessee, the Lessor, the Lessee's contractors, any subcontractors and their respective Personnel, protecting them against claims for bodily injury, death or property damage or other third party or public liability claims arising from any accident or occurrence upon, in or about the Lands from any cause, including the risks occasioned by the construction of the Building; and
- (b) all-risk course of construction insurance issued in the joint names of the Lessee, the Lessor, protecting them from all loss or damage of or to the Building and all fixtures, equipment, improvements and building materials on the Lands from time to time, both during and after construction (but which may be by different policies effected from time to time covering the risk during different phases of construction of the Building, provided that at no time will the Building be uninsured) against fire, earthquake, flood and all other perils from time to time customarily included in the usual all-risks builders' risk form of policy applicable to similar properties during construction and effected in the province of British Columbia by prudent owners, and such other perils as the Lessor may reasonably require to be insured against, to the full replacement value thereof at all times.

## 9.2 Commercial General Liability Insurance

At all times during the Term, the Lessee will effect and keep in force commercial general liability insurance with limits of not less than Five Million Dollars (\$5,000,000), or such other amount as the Lessor may require from time to time, per occurrence, against public liability claims for bodily injury, death and property damage (including loss of use) arising from the Lessee's use and occupancy of the Building and from any occurrence or accident on the Lands or Building. Such insurance will be written on an occurrence basis and will provide for blanket contractual liability, including liability assumed by the Lessee under this Lease. The policy will also contain a cross liability or severability of interests clause and will name the Lessor and Lessor's Personnel as additional insureds with respect to third party claims arising out of the Lessee's operations pursuant to this Lease.

## 9.3 All Risk Property, Pressure Vessel and Rental Income Insurance

Immediately following substantial completion of each Building and at all times thereafter during the Term, the Lessee will effect and maintain property insurance in the joint names of the Lessor and the Mortgagee (if any) as their interests may appear, to the full replacement value of the applicable Building and fixtures on the applicable Lands, protecting them against "All Perils" of loss or damage including flood, sewer backup and earthquake, and will include:

- (a) rental income insurance in an amount equal to the maximum annual rental income of the Building pursuant to the terms and conditions set out herein; and
- (b) boilers and pressure vessels, protecting against usual and unusual perils, including damage caused by rupture of steam pipes.

The policies described in this section 9.3 will contain a clause directing insurers to make losses payable to the Lessee, the Lessor, and the Mortgagee as their interests may appear.

## 9.4 Insurance - Additional Provisions

The following provisions will apply to all policies of insurance which are referred to in this Article 9:

- (a) the policies will be primary and non-contributing with respect to any policy or self-insured fund otherwise held or established on behalf of the Lessor;
- (b) the stated amount of value insured under property policies will be of sufficient amount that neither the Lessee nor the Lessor will become co-insurers with respect to any loss claimed against the insurance;
- (c) each policy will be written on a form acceptable to the Lessor and with insurers licensed to do business in the province of British Columbia and acceptable to the Lessor;

- (d) any deductible amounts applying to a claim against a policy will be of an amount approved by the Lessor;
- (e) each policy will contain a clause requiring that the insurers provide to the Lessor a minimum of sixty (60) days prior written notice of any cancellation (except for cancellation resulting from non-payment of premiums, in which case applicable statutory provisions will apply); and
- (f) all premiums and deductibles required under said policies will be paid by the Lessee to the insurers and proof of such payment will be submitted to the Lessor.

In addition to the notification obligations of the insurers required by Section 9.4(e), the Lessee will provide to the Lessor a minimum of sixty (60) days prior written notice of any cancellation, lapse or material change resulting in reduction of coverage, either in whole or in part, in respect of any of the policies of insurance which are referred to in this Article 9.

#### 9.5 Evidence of Insurance

Prior to the Lease Commencement Date the Lessee must provide the Lessor with evidence of all insurance required to be taken out pursuant to this Lease, in the form of one or more detailed certificates of insurance, in such form(s) and contents as the Lessor requests. Each certificate of insurance must identify the Lease number, policy holder and subject matter, and must not contain any disclaimer. Thereafter, and throughout the Term, forthwith upon request by the Lessor, similar evidence of renewals, extensions or replacement of such insurance will be provided in the form of such certificate(s) of insurance. In addition, if requested by the Lessor at any time, the Lessee will forthwith deliver to the Lessor a certified copy of each insurance policy requested.

#### 9.6 Payment of Loss Under Insurance Policies

The insurance monies payable under any or all of the policies of insurance referred to in this Article 9, will, notwithstanding the terms of the policy or policies, be paid to the Trustee on behalf of the Lessee, the Lessor, and the Mortgagee. The Lessee and Lessor agree that the Trustee will, subject to section 10.5, pay for all restoration, reconstruction or replacement of the loss or damage in respect of which such insurance monies were paid to the Trustee out of such insurance monies in accordance with certificates of the Architect or such other person as the Lessee and Lessor may agree upon and who is in charge of such restoration, reconstruction or replacement, after receiving such other certificates, evidence or opinions as the Trustee will require for the purpose of being satisfied that such restoration, reconstruction or replacement is being properly carried out. If the Lessee fails to restore, reconstruct or replace the loss or damage in respect of which the insurance monies were paid to the Trustee within a reasonable time, the Lessor will be entitled to effect such restoration, reconstruction or replacement and the Trustee will pay such insurance monies to the Lessor in the same manner that the Trustee would have done had the Lessee effected such restoration, reconstruction or replacement.

## 9.7 Workers Compensation Coverage

At all times during the Term, the Lessee will, and will cause its Personnel and all others engaged in or upon any work on the Building or the Lands to, comply with the *Workers Compensation Act* (British Columbia) (the "WCA") and the requirements and regulations of WorkSafeBC in respect of the Building and the Lands. Without limiting the generality of the foregoing, the Lessee will:

- (a) require as a condition of any agreement made with respect to construction, repair, renovation or demolition of a Building, whether with contractors, materialmen or otherwise, that there is full workers compensation insurance coverage in place in respect of all workmen, employees, servants and others engaged in or upon any work, and that all workmen, contractors or other workers require the same of their workmen and subcontractors. The Lessee will immediately notify the Lessor of any dispute involving third parties that arises in connection with obtaining and maintaining the workers compensation insurance coverage required hereby if such dispute results or may result in the required insurance coverage not being in place, and the Lessee will take all reasonable steps to ensure resolution of such dispute forthwith. The Lessee will further ensure that no amount payable pursuant to the WCA is left unpaid so as to create a lien on the Lands or any Building. If the workers compensation insurance coverage required by this section 9.7 is not in place, the Lessor will be entitled to have recourse to all remedies specified in this Lease or at law or equity; and
- (b) be deemed to be, and is hereby designated and appointed by the Lessor as, the "Prime Contractor" as that term is defined in section 118 of the WCA for the purposes of the WCA and related regulations, including the Occupational Health and Safety Regulation (the "OHS Regulation"), and the requirements and regulations of WorkSafeBC, and will in that capacity strictly comply with all requirements applicable to that designation, including without limitation those set forth in Division 3 of Part 3 of the WCA and in sections 20.2 and 20.3 of the OHS Regulation, as they may be amended from time to time. Notwithstanding the foregoing: (i) a contractor hired by the Lessee to perform work on the Lands on its behalf; (ii) an sub-operator engaged by the Lessee to manage the Lands on its behalf; or (iii) a contractor hired by a sub-operator referred to in (ii), may be designated as the Prime Contractor instead of the Lessee with the prior written consent of the Lessor.

## 9.8 Release of Lessor from Liability for Insured Loss or Damage

The Lessee hereby releases the Lessor and Lessor's Personnel, whether or not the Lessor or its Personnel have been negligent, from any and all liability for loss or damage caused by any of the perils against which the Lessee will have insured or is obligated to insure pursuant to the terms of this Lease or any applicable law.

ARTICLE 10  
DAMAGE OR DESTRUCTION

10.1 Rent Not to Abate

Subject to the provisions of sections 10.5 and 10.6, the partial destruction or damage or complete destruction by fire or other casualty of any Building will not result in the termination of this Lease or entitle the Lessee to surrender possession of the Lands or the Building or to demand any abatement or reduction of the Basic Rent or Additional Rent or other charges payable under this Lease, any law or statute now or in the future to the contrary notwithstanding.

10.2 Lessee's Obligation When Building Partially Damaged or Destroyed

Subject to the provisions of sections 10.5 and 10.6, the Lessee covenants and agrees with the Lessor that in the event of partial damage to or partial destruction of any Building, the Lessee will either:

- (a) replace any part of the Building damaged or destroyed with a new structure in accordance with any agreement which may be made by the Lessee with the Lessor; or
- (b) in the absence of any such agreement, repair or replace such damage or destruction to a standard comparable to the standard of the structure being repaired or replaced.

10.3 Lessee's Obligations When Building Completely or Substantially Destroyed

Subject to the provisions of sections 10.5 and 10.6, the Lessee covenants and agrees with the Lessor that in the event of complete or substantially complete destruction of any Building, the Lessee will either:

- (a) reconstruct or replace the Building with a new structure or structures in accordance with any agreement which may be made by the Lessee with the Lessor ; or
- (b) in the absence of any such agreement, replace the Building with a new structure or structures comparable to the structure or structures being replaced.

10.4 Replacement, Repair or Reconstruction

Any replacement, repair or reconstruction of a Building or any part thereof pursuant to the provisions of section 10.2 or 10.3 will be made or done in compliance with section 4.6 and Article 7.

10.5 Special Provisions Where Lessee has Mortgaged its Interest

- (a) If, during the Term, any Building is damaged or destroyed to the extent of at least twenty-five percent (25%) of the full replacement cost of the Building,

and at the time of such damage or destruction the Lessee has mortgaged its interest in the Building, and such Mortgagee notifies the parties that the insurance monies made available by reason of the casualty causing such damage or destruction will not be applied in repairing, reconstructing or replacing the Building, and the right to so elect is reserved to the Mortgagee under the terms of the Mortgage, then the Lessee may decline to repair, reconstruct or replace the Building and instead elect to terminate this Lease, provided that the Lessee makes such election within sixty (60) days after the date on which the Building was so damaged or destroyed and notifies the Lessor of its election forthwith after making it. If the Lessee does not elect to so terminate this Lease, then the Lessee will repair, reconstruct or replace the Building or any part thereof damaged or destroyed in accordance with section 10.2 or section 10.3, as the case may be, and section 10.4;

- (b) As soon as reasonably possible, but not later than one hundred and eighty (180) days following the date of termination of this Lease by the Lessee pursuant to section 10.5(a), the Lessee will demolish and completely remove the damaged or destroyed Building and all foundations and debris from the Lands and restore the Lands to a neat and level condition in a good and workmanlike manner. Any insurance money payable by reason of any fire or other casualty causing such destruction will, notwithstanding the provisions of Article 9, be distributed as follows:
- (i) firstly, to reimburse the Lessee for all costs and expenses necessarily incurred by the Lessee in the demolition and removal of the Building and all foundations and debris from the Lands and the restoration of the Lands as aforesaid;
  - (ii) secondly, to pay and satisfy the Mortgage, if any;
  - (iii) thirdly, to pay the balance of the insurance monies, if any, as follows:
    - A. to the Lessor, the amount calculated as follows:
 
$$\text{amount payable} = (\text{balance of insurance monies}) \times (\text{days in expired portion of the Term} \div \text{total days in Term}); \text{ and}$$
    - B. to the Lessee, the amount calculated as follows:
 
$$\text{amount payable} = (\text{balance of insurance monies}) \times (\text{days remaining in the Term} \div \text{total days in Term});$$
- (c) Notwithstanding anything contained herein, in the event the Lessee terminates this Lease in accordance with this section 10.5, this section will nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns so long as any obligations of the parties under this section 10.5 or any part thereof remains unperformed; and

- (d) The provisions of this section 10.5 are subject always to the provisions of section 10.6.

#### 10.6 Destruction or Damage During Last Two Years of Term

- (a) In the event of the complete or substantially complete destruction of a Building during the last two (2) years of the Term, the Lessee may, at its option, either reconstruct or replace the Building so destroyed or damaged in accordance with section 10.3 or decline to do so, and instead elect to terminate this Lease, provided that the Lessee makes such election within sixty (60) days after the date on which the Building was so destroyed and notifies the Lessor of its election forthwith after making it;
- (b) As soon as reasonably possible, but not later than one hundred and eighty (180) days following the date of termination of this Lease by the Lessee pursuant to section 10.6(a), the Lessee will demolish and completely remove the Building and all foundations and debris from the Lands and restore the Lands to a neat and level condition in a good and workmanlike manner. Any insurance money payable by reason of any fire or other casualty causing such destruction will, notwithstanding the provisions of Article 9, be distributed as follows:
- (i) firstly, to reimburse the Lessee for all costs and expenses necessarily incurred by the Lessee in the demolition and removal of the Building and all foundations and debris from the Lands and the restoration of the Lands as aforesaid;
  - (ii) secondly, to pay and satisfy the Mortgage, if any;
  - (iii) thirdly, to pay the balance of the insurance monies, if any, as follows:
    - A. to the Lessor the amount calculated as follows:
 
$$\text{amount payable} = (\text{balance of insurance monies}) \times (\text{days in expired portion of the Term} \div \text{total days in Term}); \text{ and}$$
    - B. to the Lessee the amount calculated as follows:
 
$$\text{amount payable} = (\text{balance of insurance monies}) \times (\text{days remaining in the Term} \div \text{total days in Term}).$$
- (c) Notwithstanding anything contained herein, in the event the Lessee terminates this Lease in accordance with this section 10.6, this section 10.6 will nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns so long as any obligations of the parties under this section 10.6 or any part thereof remains unperformed.

ARTICLE 11  
INSPECTION AND EXHIBITION BY LESSOR

11.1 Inspection by Lessor

The Lessor and the Lessee agree that it will be lawful for representatives of the Lessor to enter the Lands and the Building at all reasonable times during the Term and to examine the condition thereof. If the Lessor determines that any of the repairs described in section 7.2 are required, notice of such required repairs will be given by the Lessor to the Lessee, and the Lessee will within thirty (30) days after every such notice, or such longer period as provided in section 18.1(c), repair and make good accordingly.

11.2 Exhibition by Lessor

During the final year of the Term, the Lessor will be entitled to display upon the Lands the usual signs advertising the Lands and Building as being available for purchase or lease, provided such signs are displayed in such a manner as not to unreasonably interfere with the Lessee's use and enjoyment of the Lands and the Building.

ARTICLE 12  
OBSERVANCE OF GOVERNMENTAL REGULATIONS

12.1 Compliance

The Lessee covenants to competently and faithfully observe and comply with all laws, bylaws and lawful orders which apply to the Lands and the Building or the Lessee's occupation of or activities on the Lands or in the Building, and to not use or occupy or permit to be used or occupied the Lands or the Building or any part thereof for any illegal or unlawful purpose or in any manner which would result in the cancellation or threatened cancellation of any insurance, or in the refusal of any insurer to issue any insurance as requested. If any law, bylaw or lawful order is directed at or places a duty or obligation upon the Lessor, then the same will be performed and observed by the Lessee, at its cost, in the place and stead of the Lessor.

ARTICLE 13  
RIGHTS OF LESSOR AND LESSEE

13.1 As Landlord and Tenant

All rights and benefits and all obligations of the Lessor and the Lessee under this Lease will be rights, benefits and obligations of the Lessor and the Lessee respectively in their capacities as landlord and tenant respectively under this Lease.

ARTICLE 14  
EXCLUSION OF LIABILITY AND INDEMNITY

14.1 Limitation of Liability and Release

Neither the Lessor nor its Personnel or contractors will be liable for, and the Lessee hereby releases the Lessor and its Personnel and contractors from all Losses, including without limitation, Losses as a result of:

- (a) any bodily injury or death, however caused, suffered or sustained in or about the Lands or the Building; or
- (b) any property damage or other loss or damage of any nature whatsoever, however caused, to the Lands or the Building, or to any property belonging to the Lessee or to any other person in or about the Lands or the Building,

whether such Losses arise from an exercise of the Lessor's rights or privileges herein or otherwise, unless directly resulting from the respective negligence of the Lessor or its Personnel or contractors, as the case may be.

14.2 Exclusion of Liability

Notwithstanding section 14.1, neither the Lessor nor its Personnel or contractors will be liable for:

- (a) consequential, business, economic or indirect loss or damage of any nature whatsoever, however caused, which may be suffered or sustained by the Lessee or any other person who may be in or about the Lands or the Building; or
- (b) any loss against which the Lessee is obligated to insure or has insured.

14.3 Indemnification

The Lessee hereby agrees to indemnify and save harmless the Lessor and its Personnel and contractors from and against all Losses which the Lessor or its Personnel or contractors may suffer or incur arising out of, or in any way connected with, or that would not or could not be made or incurred but for this Lease; provided, however, that such indemnity will not apply to the extent, if any, to which such Losses directly result from the respective negligence of the Lessor or its Personnel or contractors, as the case may be. Without derogating from the generality of the foregoing, the Lessee agrees to indemnify and save harmless the Lessor and its Personnel and contractors in respect of all Losses:

- (a) as a result of bodily injury or death, property damage or other damage arising from the conduct of any work by or any act or omission of or relating to or arising from the occupation or possession of the Lands and the Building by the Lessee or any assignee, subtenant, Personnel, contractor, invitee or licensee of the Lessee; or

- (b) suffered or incurred by the Lessor or its Personnel and contractors that arise, whether directly or indirectly, from any breach by the Lessee, its Personnel, contractors or any other person for whom the Lessee is responsible in law, of any of its covenants and obligations under this Lease.

#### 14.4 Indemnification Survives Termination of Lease

The obligations of the Lessee to indemnify the Lessor and its Personnel and contractors will apply and continue notwithstanding the termination or expiration of this Lease, breach of this Lease by the Lessor, or negligence on the part of the Lessor or its Personnel or contractors, anything in this Lease to the contrary notwithstanding.

### ARTICLE 15 SUBLETTING AND ASSIGNING

#### 15.1 Subletting and Assigning by Lessee

The Lessee will not during the Term sublease, assign, transfer, sell or encumber the Lease or enter into any agreement for the purpose of sub-leasing, assignment, transferring, selling or encumbering the Lease, the Building, the Lands, or any part thereof, except as expressly permitted in this Lease, or with the prior written consent of the Lessor, which consent the Lessor may arbitrarily withhold; provided, however, that if the Lessee is a Mortgagee, the Lessor will not unreasonably withhold its consent. The Lessee may sublet or grant licences or other rights to occupy or use any part of any Building to:

- (a) Eligible Occupants;
- (b) staff and other personnel authorized by the Lessor who are required to operate and maintain the Building and the Lands for the purposes of this Lease and who are bona fide employees of the Lessee; or
- (c) commercial or retail tenants of the CRU Units.

#### 15.2 Copies of Subleases

If required by the Lessor, a copy of any or all such subleases will be forwarded to the Lessor within thirty (30) days after the conclusion of each transaction, together with particulars of registration (if any) in the Land Title Office.

### ARTICLE 16 MORTGAGE

#### 16.1 Mortgaging by Lessee

The Lessee may mortgage its leasehold interest in the Lands and Building only with the prior written consent of the Lessor. Notwithstanding any such Mortgage, the Lessee will be and remain liable for the payment of all Basic Rent and Additional Rent, and the performance of all of its obligations set out in this Lease.

## 16.2 Tripartite Agreement

At the request of the Mortgagee, the Lessor will execute and deliver to the Mortgagee an agreement among the Lessee, the Lessor and the Mortgagee, or between the Lessor and the Mortgagee, which will be binding and enforceable against the Lessee (if a party thereto), the Lessor and the Mortgagee and their successors and assigns, whereby the Lessor will agree with the Mortgagee to afford to the Mortgagee the rights and remedies afforded to Mortgagees under this Lease.

## ARTICLE 17 BANKRUPTCY OF LESSEE

### 17.1 Bankruptcy of Lessee

Subject to the provisions of section 18.2(c), if the Term is at any time seized or taken in execution by any creditor of the Lessee, or if the Lessee makes a general assignment for the benefit of creditors, or institutes proceedings to subject itself to the *Winding-up and Restructuring Act* (Canada) or to be adjudicated a bankrupt or insolvent, or consents to the institution of bankruptcy or insolvency proceedings against it, or files an application or petition or answer or consent seeking reorganization or readjustment of the Lessee under the *Bankruptcy and Insolvency Act* (Canada) or the *Companies' Creditors Arrangement Act* (Canada) or any law of Canada or any province thereof relating to bankruptcy or insolvency, or consents to the filing of any such application or petition, or consents to the appointment of a receiver, or if the Lessee or its directors pass any resolution authorizing the dissolution or winding-up of the Lessee, or if a receiver, interim receiver, trustee or liquidator of all or any part of the property of the Lessee is appointed or applied for by the Lessee, or if a judgment, decree or order is entered by a court of competent jurisdiction adjudging the Lessee a bankrupt or insolvent or subject to the provisions of the *Winding-up and Restructuring Act* or *Bankruptcy and Insolvency Act* or determining the proceedings for reorganization, arrangement, adjustment, composition, liquidation, dissolution or winding-up or any similar relief under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency has been properly instituted, then, subject to Section 23.4, this Lease will, at the option of the Lessor, immediately become terminated.

## ARTICLE 18 DEFAULT BY LESSEE

### 18.1 Re-entry on Certain Defaults by Lessee

The Lessee and the Lessor agree that, subject to the provisions of sections 18.2 and 23.4, if and whenever:

- (a) Basic Rent or any part thereof is not paid on the day appointed for payment thereof; or
- (b) the Lessee defaults in payment of Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease, and such default

continues for thirty (30) days following any specific due date on which the Lessee is to make such payment or, in the absence of such specific due date, for thirty (30) days following notice by the Lessor requiring the Lessee to pay the same; or

- (c) any Building is abandoned or remains vacant for more than thirty (30) days; or
- (d) the Lessee defaults in performing or observing any of its other covenants or obligations under this Lease, or any contingency occurs which by the terms of this Lease constitutes a breach hereof or confers upon the Lessor the right to re-enter or forfeit or terminate this Lease, and the Lessor has given to the Lessee notice of such default or the happening of such contingency, and if at the expiration of forty-five (45) days after the giving of such notice the default or contingency continues to exist, or in the case of a default or contingency which cannot with due diligence be cured within the period of forty-five (45) days aforesaid, if the Lessee does not commence the rectification of such default or contingency within the said forty-five (45) day notice period and thereafter promptly and diligently and continuously proceed with such rectification; or
- (e) this Lease expires or is forfeited or terminated pursuant to any other provision contained herein, including, without restricting the generality of the foregoing, the termination of this Lease pursuant to the provisions of sections 4.4 or 10.5,

then and in every such case, it will be lawful for the Lessor at any time thereafter without notice or demand, with or without process of law and by forced entry if necessary, to enter into and upon the Lands and the Building, or part thereof in the name of the whole, and, if this Lease has not already expired or been forfeited or terminated, to terminate this Lease by leaving upon the Lands notice in writing of such termination. If the Lessor terminates this Lease pursuant to this section, or otherwise as a result of default of the Lessee, or if the Lessee has forfeited this Lease, the Lessee will be liable to the Lessor for the rents and all other amounts to be paid and the covenants to be performed by the Lessee up to the date of such termination or forfeiture.

## 18.2 Notice to and Remedies of Mortgagee

The following provisions will apply with respect to any Mortgagee:

- (a) no re-entry, termination or forfeiture of this Lease by the Lessor will be valid against the Mortgagee who has filed with the Lessor a notice of Mortgage and specified an address for notice in accordance with Article 26, unless the Lessor has first given to the Mortgagee written notice of the default or contingency entitling the Lessor to re-enter, terminate or forfeit this Lease, specifying the nature of that default or contingency, and stating the Lessor's intention to take such proceedings and requiring the Mortgagee:
  - (i) to cure the default or contingency specified in the notice within a period of sixty (60) days from the date of receipt of that notice by the Mortgagee; or

- (ii) if the default or contingency is other than the failure to pay Basic Rent or Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease, and if the default or contingency cannot reasonably be cured within such sixty (60) day period, then to immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or contingency,

and the Lessor hereby grants the Mortgagee access to the Lands and the Building for that purpose. If the default or contingency is cured within the period specified, or in the circumstances referred to in 18.2(a)(ii), if cured within a reasonable period, the Mortgagee will be entitled to continue as tenant for the balance of the Term remaining at the date of the notice of default or contingency providing that the Mortgagee attorns as tenant to the Lessor and undertakes to be bound by and to perform and observe all of the Lessee's obligations, covenants and agreements under this Lease until such Mortgagee as tenant assigns its leasehold estate as permitted by this Lease and delivers to the Lessor an agreement from the assignee which is enforceable and binding on the assignee and its heirs, executors, successors, administrators and assigns as of the date of the assignment and by which the assignee agrees with the Lessor to attorn as tenant to the Lessor and to be bound by and to perform and observe all of the Lessee's obligations, covenants and agreements under this Lease. If the Mortgagee consists of more than one mortgagee, each having a separate charge upon the Lessee's interest in this Lease, and more than one of them wishes to cure the default or contingency specified in the notice aforesaid, then the Lessor hereby agrees to permit curing of the default or contingency specified as aforesaid by that Mortgagee that is willing to cure the default or contingency and attorn as tenant as aforesaid and whose charge ranks in priority over the charge or charges held by the other Mortgagee or Mortgagees willing to cure and attorn as aforesaid, except that in the event that any Mortgagee has commenced a foreclosure action, the provisions of section 18.2(b) will apply;

- (b) in the event the Mortgagee commences foreclosure proceedings against the Lessee, whether or not the Lessee is in default of the performance of its covenants and agreements with the Lessor under this Lease at the time such foreclosure proceedings are commenced, the Lessor will not re-enter, terminate or forfeit this Lease after the commencement of foreclosure proceedings on the ground of any default or contingency entitling the Lessor to re-enter, terminate or forfeit this Lease if the Mortgagee:
  - (i) has given to the Lessor notice of the foreclosure proceedings;
  - (ii) is actively prosecuting the foreclosure proceedings;
  - (iii) except for the bankruptcy or insolvency of the Lessee, which will be governed by section 18.2(c), cures the default or contingency within a period of sixty (60) days from the date of receipt of notice from the Lessor specifying the nature of the default or contingency, or if the default or contingency is other than the failure to pay Basic Rent or

Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease and if such default or contingency cannot reasonably be cured within such sixty (60) day period, immediately commences to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or contingency; and

- (iv) performs and observes all of the Lessee's covenants and agreements under this Lease, except for any obligation to cure the bankruptcy or insolvency of the Lessee, and without undue delay diligently prosecutes to a conclusion the foreclosure proceedings commenced by the Mortgagee;

provided, however, that the curing of the default or contingency may be delayed until the date that the Mortgagee acquires the Lessee's interest in this Lease. In the event that the Mortgagee acquires the Lessee's interest in the Lands and Building pursuant to the foreclosure proceedings, the Mortgagee will thereupon become subrogated to the rights of the Lessee under this Lease, provided it attorns to the Lessor as tenant and undertakes to be bound by and perform the covenants and agreements of this Lease until such Mortgagee as Lessee assigns its leasehold estate as permitted by this Lease and delivers to the Lessor an agreement from the assignee which is enforceable and binding on the assignee and its heirs, executors, successors, administrators and assigns as of the date of the assignment and by which the assignee agrees with the Lessor to attorn as tenant to the Lessor and to be bound by and to perform the covenants and agreements of this Lease. If the Mortgagee consists of more than one mortgagee and more than one of them commences foreclosure proceedings, the right to cure any default or contingency granted by this section 18.2(b) to a foreclosing Mortgagee will be deemed granted to them in the order of priority of the charges held by the foreclosing mortgagees;

- (c) if this Lease is subject to termination or forfeiture pursuant to Article 17 by reason of the bankruptcy or insolvency of the Lessee and the Mortgagee has filed with the Lessor a notice of Mortgage in favour of the Mortgagee and specified an address for notice in accordance with Article 26, the Lessor will give to the Mortgagee notice of the bankruptcy or insolvency of the Lessee entitling the Lessor to terminate or forfeit this Lease and stating the Lessor's intention to take such proceedings and requiring the Mortgagee to cure the Lessee default under this Lease (except for the bankruptcy or insolvency of the Lessee), and the Lessee's default will be deemed to have been sufficiently cured if the Mortgagee will:
  - (i) take possession and control of the Lands and Building, or cause a receiver to be appointed under the terms of the Mortgagee's charge or by a court of competent jurisdiction, which receiver will take possession and control of the Lands and Building, and the Lessor hereby grants the Mortgagee or such receiver access to the Lands and Building for that purpose;

- (ii) cure every default under this Lease (except for the bankruptcy or insolvency of the Lessee) within a period of sixty (60) days from the date of receipt by the Mortgagee of the notice from the Lessor of the bankruptcy or insolvency of the Lessee, or if such default or defaults are other than the failure to pay Basic Rent or Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease and if such default or defaults cannot reasonably be cured within such sixty (60) day period, immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure such default or defaults; provided, however, that the curing of the default or contingency may be delayed until the Mortgagee acquires the Lessee's interest in this Lease; and
- (iii) subject to the right of a Mortgagee to delay the curing of the default or contingency as set out in section 18.2(c)(ii), attorn as tenant to the Lessor and undertake to observe, be bound by and perform the obligations, covenants and agreements of the Lessee under this Lease until such Mortgagee, as tenant, assigns its leasehold estate as permitted under this Lease and delivers to the Lessor an agreement from the assignee which is enforceable and binding on the assignee and its heirs, executors, successors, administrators and assigns as of the date of the assignment and by which the assignee agrees with the Lessor to attorn as tenant to the Lessor and to observe, be bound by and perform the obligations, covenants and agreements of the Lessee under this Lease.

If the Mortgagee consists of more than one mortgagee, the right to take possession and control, to cure any default and to assume the Lease as aforesaid will be deemed granted to them in the order of the priority of their respective charges;

- (d) any re-entry, termination or forfeiture of this Lease made in accordance with the provisions of this Lease as against the Lessee will be valid and effectual against the Lessee even though made subject to the rights of any Mortgagee to cure any default of the Lessee and to continue as tenant under this Lease; and
- (e) no entry upon the Lands or into the Building by the Mortgagee for the purpose of curing any default of the Lessee will release or impair the continuing obligations of the Lessee.

### 18.3 Remedies of Lessor are Cumulative

The remedies of the Lessor specified in this Lease are cumulative and are in addition to any remedies that the Lessor may have at law or equity. No remedy will be deemed to be exclusive, and the Lessor may from time to time have recourse to one or more or all of the available remedies specified herein, or at law or equity. In addition to any other remedies provided in this Lease, the Lessor will be entitled to restrain by injunction any violation or attempted or threatened violation by the Lessee of any of the covenants or agreements contained herein.

#### 18.4 Waiver by Lessor

The failure of the Lessor to insist upon the strict performance of any covenant or agreement contained in this Lease will not waive such covenant or agreement, and the waiver by the Lessor of any breach of any covenant or agreement of the Lessee under this Lease will not constitute a waiver of such covenant or agreement in respect of any other breach. The receipt and acceptance by the Lessor of rent or other monies due hereunder with knowledge of any breach of any covenant or agreement by the Lessee will not constitute a waiver of such breach. No waiver by the Lessor will be effective unless made in writing.

### ARTICLE 19 ARBITRATION

#### 19.1 Arbitration

If a disagreement arises pursuant to Sections 4.4 or 4.7, the same will be settled by arbitration. The arbitration will be conducted in accordance with the following procedures:

- (a) the arbitration will be commenced and finally resolved by arbitration under the rules of the British Columbia International Commercial Arbitration Centre ("BC ICAC") for domestic commercial arbitration;
- (b) the arbitrator will be as agreed upon by the parties or, failing agreement, the appointing authority will be BC ICAC;
- (c) the arbitration will be conducted in the City of Vancouver;
- (d) the cost of the arbitration will be as determined by the arbitrator; and
- (e) the decision of the arbitrator will be final and binding on all parties.

The *Commercial Arbitration Act* (British Columbia) will apply with respect to the arbitration. If a Mortgagee holds a Mortgage of the Lessee's leasehold interest in the Lands and Building, any notice of a dispute given under this section by one of the parties to the others will be given at the same time to such Mortgagee, if it has specified an address for notice, and such Mortgagee so notified will be given a reasonable opportunity by the parties to participate in the arbitration proceedings if it considers such proceedings may affect the Mortgage security.

### ARTICLE 20 SURRENDER OF LEASE

#### 20.1 Surrender of Lease

At the termination or expiration of the Term, whether by forfeiture, default or lapse of time, the Lessee will surrender the Lands and Building to the Lessor in the condition in which they were required to be kept by the Lessee pursuant to the provisions of this

Lease, including, without restricting the generality of the foregoing, the provisions of sections 10.5(b) and 10.6(b), except as herein otherwise expressly provided.

## ARTICLE 21

### QUIET ENJOYMENT, OWNERSHIP OF TENANTS' FIXTURES AND OWNERSHIP OF BUILDING

#### 21.1 Covenant for Quiet Enjoyment

Subject always to the Lessor's rights herein, and subject always to the Permitted Encumbrances as extended or modified from time to time, if the Lessee pays the rent hereby reserved and all other amounts payable hereunder, and observes and performs all of the obligations, covenants and agreements of the Lessee herein contained, the Lessee may peaceably enjoy and possess the Lands for the Term, without any interruption or disturbance whatsoever from the Lessor or any other person, firm or corporation lawfully claiming through, from or under the Lessor, provided however that the enforcement by the Lessor, in its capacity as a municipality, of laws, bylaws and orders that touch and concern the Lands and Building will not be a breach of the Lessor's covenant set forth in this section.

#### 21.2 Ownership of Tenant's Fixtures

The Lessee may confer upon tenants or occupants of the Building the right of property in, or the right to remove, fixtures or improvements which are of the nature of usual tenants' fixtures and normally removable by tenants, and which are not part of the Building or the Lands. The Lessee will make good, or will cause such tenants to make good, any damage to the Building caused by any removal of the tenants' fixtures.

#### 21.3 Ownership of Building

The Building will become the absolute property of the Lessor, free and clear of all liens, charges, encumbrances, equities or claims of any kind or nature whatsoever, save and except for the Permitted Encumbrances, upon the expiration or earlier termination of the Term or any permitted period of overholding, except as provided in Article 10, but will be deemed, as between the Lessor and the Lessee during the Term, to be the separate property of the Lessee and not of the Lessor but subject to and governed by all the provisions of this Lease, provided always that the Lessor's absolute right of property in the Building, which will arise at the expiration or earlier termination of the Term or any permitted period of overholding, will take priority over any other interest in the Building that may now or hereafter be created by the Lessee without the prior written consent of the Lessor, and provided that all dealings by the Lessee with the Building which in any way affect title thereto will be made expressly subject to this right of the Lessor and the Lessee will not assign, encumber or otherwise deal with the Building separately from any permitted dealing with the leasehold interest under this Lease, to the intent that no person will hold or enjoy any interest in this Lease acquired from the Lessee who does not at the same time hold a like interest in the Building.

ARTICLE 22  
OVERHOLDING

22.1 Overholding

The Lessee covenants and agrees with the Lessor that if the Lessee will hold over and the Lessor will accept rent after the expiration of the Term, the new tenancy thereby created will be a tenancy from month to month and not a tenancy from year to year and will be subject to the covenants and conditions herein contained so far as the same are applicable to a tenancy from month to month, provided however that the monthly Basic Rent payable by the Lessee will be the then market rental value of the Lands and the Building, taking into account any restrictions on the use of the Lands and Building at the time, as determined from time to time in the bona fide opinion of the Lessor's Director of Real Estate Services or his or her successor in function, and such monthly Basic Rent will be paid in advance. The Lessee will also pay monthly as Additional Rent one-twelfth of the then current sum described in section 3.1 or 3.2 hereof, as the case may be.

ARTICLE 23  
ENVIRONMENTAL MATTERS

23.1 Definitions

For the purposes of this Article 23:

- (a) "Contaminants" mean any pollutants, contaminants, deleterious substances, underground or aboveground tanks, asbestos materials, urea formaldehyde, dangerous substances or goods, hazardous, corrosive or toxic substances, special waste or waste of any kind or any other substance which is now or hereafter prohibited, controlled or subject to Environmental Laws; and
- (b) "Environmental Laws" means any statutes, laws, regulations, orders, bylaws, standards, guidelines, permits and other lawful requirements of any governmental authority having jurisdiction over the Lands or Building, now or hereafter in force and relating in any way to the environment, health, occupational health and safety, product liability or transportation of dangerous goods, and includes the principles of common law and equity.

23.2 Lessee's Covenants and Indemnity

The Lessee covenants and agrees as follows:

- (a) not to use or permit to be used all or any part of the Lands or Building for the sale, storage, manufacture, disposal, handling, treatment, use or any other dealing with Contaminants, without the prior written consent of the Lessor, which consent may be arbitrarily or unreasonably withheld;
- (b) to strictly comply, and cause all persons for whom it is at law responsible to comply, with all Environmental Laws regarding the use and occupancy of the Lands and Building;

- (c) to promptly provide to the Lessor a copy of any environmental site investigation, assessment, audit or report relating to the Lands or Building and conducted by or for the Lessee at any time before, during or after the Term, or any renewal or extension thereof. The Lessee hereby waives the requirement for the Lessor to provide a site profile for the Lands pursuant to the *Environmental Management Act* (British Columbia), any regulations enacted pursuant thereto, or any similar or successor legislation;
- (d) to promptly provide to the Lessor on request such written authorizations as the Lessor may require from time to time to make inquiries of any governmental authorities regarding the Lessee's compliance with Environmental Laws;
- (e) to promptly notify the Lessor in writing of the existence or release of any Contaminant on, in or under the Lands or Building or of any other occurrence or condition at the Lands or any adjacent property that could contaminate the Lands or the Building or result in the non-compliance of the Lands or Building with Environmental Laws, or subject the Lessor or Lessee to any fines, penalties, orders, investigations or proceedings under Environmental Laws;
- (f) on the expiry or earlier termination of this Lease, or at any time if requested by the Lessor or required pursuant to Environmental Laws, to remove from the Lands and Building all Contaminants, and to remediate any contamination of the Lands or any adjacent or other affected property resulting from Contaminants, in either case brought onto, used at, created upon or released from the Lands by the Lessee or any person for whom the Lessee is at law responsible. The Lessee will perform these obligations promptly at its own cost and in accordance with Environmental Laws. All such Contaminants will remain the property of the Lessee, notwithstanding any rule of law or other provision of this Lease to the contrary and notwithstanding their degree of affixation to the Lands or Building; and
- (g) without limiting the generality of Article 14, to indemnify the Lessor and its Personnel and contractors from any and all Losses (including the cost of remediation of the Lands and Building and any other affected property) arising from or in connection with:
  - (i) any breach of or non-compliance with the provisions of this Article 25 by the Lessee; or
  - (ii) the release or alleged release of any Contaminants at or from the Lands related to or as a result of the use and occupation of the Lands and Building by, or any act or omission of, the Lessee or any person for whom the Lessee is responsible at law.

The obligations of the Lessee under this Article 23 will survive the expiry or earlier termination of this Lease, and the obligations of the Lessee under this Article 25 are in addition to, and will not limit, the other obligations of the Lessee under this Lease.

ARTICLE 24  
NOTICE

24.1 Notice

All notices, demands and request which may or are required to be given pursuant to this Lease will be in writing and will be sufficiently given if served personally upon the party for which it is intended, or mailed prepaid and double registered:

- (a) in the case of the Lessee, addressed to the Lessee at the postal address shown on the General Instrument;
- (b) in the case of the Lessor, addressed to:

City of Vancouver  
City Hall  
453 West 12<sup>th</sup> Avenue  
Vancouver, British Columbia V5Y 1V4

Attention: City Clerk  
and: Director of Legal Services

or at such other addresses as each of the parties may from time to time advise by notice in writing. Mortgagees hereof will supply their respective mailing addresses to the Lessor and the Lessee. The date of receipt of any such notice, demand or request will be deemed to be the date of delivery if such notice, demand or request is served personally or if mailed as aforesaid on the fifth business day next following the date of such mailing; provided, however, that if mailed, should there be between the time of mailing and the actual receipt of the notice a mail strike, slow down of postal service or other labour dispute which affects the delivery of such notice, then such notice will be deemed to be received when actually delivered.

ARTICLE 25  
MISCELLANEOUS

25.1 Statements by Lessor

The Lessor and the Lessee agree that at any time and from time to time, upon not less than thirty (30) days prior request by the other party, each will execute, acknowledge and deliver to the other a statement in writing certifying:

- (a) that this Lease is unmodified and in full force and effect, or if there have been modifications, the nature of such modifications and that the same are in full force and effect as modified;
- (b) the dates to which the rent and any other amounts payable under this Lease have been paid; and

- (c) that to the best of the information and belief of the maker of the statements, the Lessor and the Lessee are not in default under any provision of this Lease, or, if in default, the particulars thereof.

#### 25.2 Time of Essence

Time will be of the essence of this Lease, save as otherwise specified herein.

#### 25.3 Formality of Modifications

This Lease may not be modified or amended except by an instrument in writing executed by the Lessor or its successors or assigns, and by the Lessee or its successors or permitted assigns.

#### 25.4 Captions and Headings

The captions and headings throughout this Lease are for convenience and reference only and the words and phrases contained therein will in no way be held or deemed to define, limit, describe explain, modify, amplify or add to the interpretation, construction or meaning of any provision of or the scope or intent of this Lease nor in any way affect this Lease.

#### 25.5 Enurement

It is further agreed and declared by the Lessor and the Lessee that this Lease will extend to, be binding upon and enure to the benefit of the Lessor and the Lessee, and their respective successors and permitted assigns.

#### 25.6 Covenants or Conditions

All of the provisions of this Lease will be deemed and construed to be conditions as well as covenants, as though the words specifically expressing or importing covenants or conditions were used in each separate provision hereof.

#### 25.7 References

The words "herein", "hereby", "hereunder" and words of similar import refer to this Lease as a whole and not to any particular Article, section or subsection in this Lease.

**SCHEDULE A  
HOUSING REQUIREMENTS**

**1. Definitions.**

Capitalized terms used in this Schedule A shall have the meanings specified in this Section 1:

- (a) **"HILs Unit"** means a Residential Unit in respect of which a HILs Unit Housing Charge is payable;
- (b) **"HILs Unit Housing Charge"** means the Housing Charge to be charged by the Lessee to a HILs Unit Occupant from time to time during the Term, which shall be no more per month than 1/40 of that HIL's Unit Occupant's Income;
- (c) **"HILs Unit Occupant"** means one or more cohabiting adults, with or without cohabiting children, whose collective Income does not exceed the housing income limits as set out in the then-current "Housing Income Limits" table published by the British Columbia Housing Management Commission, or a successor or equivalent publication approved by the Lessor;
- (d) **"Housing Charge"** means the charge, determined and assessed by the Lessee from time to time, payable monthly by an Occupant of a Residential Unit in the Building pursuant to an Occupancy Agreement for the right to occupy a Residential Unit;
- (e) **"Income"** of an Occupant (where "Occupant" includes all persons for whom the Residential Unit serves as the principal residence) means the total annual world-wide income before income tax from all sources of the Occupant, calculated as of the date when the Occupant becomes a resident of the Building, and includes without limitation, the following income sources:
  - (i) Income Assistance;
  - (ii) employment, including regular overtime, vacation pay and gratuities;
  - (iii) self-employment, including commission sales;
  - (iv) seasonal employment;
  - (v) Employment Insurance and WorkSafe BC insurance;
  - (vi) training allowances;
  - (vii) income from the Resettlement Assistance Program;
  - (viii) child support, maintenance payments or support from family/friends/community;

- (ix) rental income from real estate or dividends from stocks or bonds, if the real monthly Income is greater than the imputed income from the asset; and
- (x) pension incomes including:
  - (A) old Age Security, Guaranteed Income Supplement, Allowance, and Allowance for the Survivor (formerly Spousal Allowance);
  - (B) senior's supplement;
  - (C) private pension plans including Registered Retirement Income Funds;
  - (D) Canada Pension Plan, including retirement, disability, orphans, widows, disability for child, etc.
  - (E) War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada (included for calculations with an effective date prior to January, 2013); and
  - (F) foreign pensions,

but does not include:

- (xi) earnings of dependent children aged 18 and under (regardless of student status);
- (xii) student loans, equalization payments, student grants and scholarships;
- (xiii) taxable benefits, including living out or travel allowances, medical coverage, uniform allowance, etc.;
- (xiv) Shelter Aid for Elderly Renters ("SAFER") and Rental Assistance Program ("RAP") payments;
- (xv) Canada Child Tax Benefits, including the National Child Benefit Supplement, Child Disability Benefit, BC Family Bonus, and BC Earned Income Benefit;
- (xvi) Universal Child Care Benefits;
- (xvii) BC Childcare Subsidy;
- (xviii) income from foster parenting;
- (xix) Child in Home of Relative and Extended Family Program;
- (xx) income from approved live-in care givers;

- (xxi) GST and Income Tax rebates; and
- (xxii) War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada.
- (f) "**Income Assistance**" means income received under the *Employment and Assistance Act* (British Columbia), the *Employment and Assistance for Persons with Disabilities Act* (British Columbia), or successor legislation;
- (g) "**Low-End of Market Unit**" means a Residential Unit in respect of which a Low-End of Market Unit Housing Charge is payable;
- (h) "**Low-End of Market Unit Housing Charge**" means the Housing Charge to be charged by the Lessee to a Low-End of Market Unit Occupant which shall not exceed 90% of the appraised market rent for a comparable unit in the local area and shall be no more than 30% of the low and moderate income limit as determined by BC Housing from time to time based on data provided by Statistics Canada;
- (i) "**Low-End of Market Unit Occupant**" means one or more cohabiting adults (18 years of age or older) with or without cohabiting children, whose collective Income does not exceed the low and moderate income limit as determined by BC Housing from time to time based on data provided by Statistics Canada;
- (j) "**Occupancy Agreement**" means an agreement, lease, license or other right of an occupant of a Residential Unit to occupy that Residential Unit;
- (k) "**Occupant**" means the person or persons named in the Occupancy Agreement;
- (l) "**Residential Unit**" means a self-contained dwelling unit in the Building with its own kitchen, bathroom, and sleeping and living spaces;
- (m) "**Shelter Rate Unit**" means a Residential Unit in respect of which a Shelter Rate Unit Housing Charge is payable;
- (n) "**Shelter Rate Unit Housing Charge**" means the Housing Charge to be charged by the Lessee to a Shelter Rate Unit Occupant from time to time during the Term, which shall not exceed the shelter component of Income Assistance;
- (o) "**Shelter Rate Unit Occupant**" means one or more cohabiting adults who is/are in receipt of Income Assistance;
- (p) "**Utilities**" means all charges, rates and levies on account of utilities, including for heat, electricity, gas, telephone, television, internet and other costs and expenses of a similar nature.

## 2. Affordability Requirements

The Lessee will at all times during the Term ensure that:

- (a) not less than \_\_\_% of the Residential Units in the Building are HILs Units occupied by HILs Unit Occupants;
- (b) not less than \_\_\_% of the Residential Units in the Building are Shelter Rate Units occupied by Shelter Rate Unit Occupants; and
- (c) the balance of the Residential Units in the Building are Low-End of Market Units occupied by Low-End of Market Unit Occupants.

The Lessor acknowledges that existing Occupants may be categorized differently from time to time on the basis of changes in personal circumstances. To the extent that the Lessee at any time fails to satisfy the requirements set out above only because of such changes in circumstances, the Lessee will be considered to be in compliance with the requirements so long as the Lessee makes reasonable efforts in filling vacancies from time to time to move the Building towards compliance with the requirements.

### 3. Reporting Requirements

- (a) **Rent Report.** The Lessee will, on an annual basis commencing on the first anniversary of the date of the occupancy permit issued to the Lessee in respect of the Building, provide the Lessor with a report setting out the rents charged to and Incomes of all HILs Unit Occupants, without any names, units numbers or any other personal information, and any other information the Lessor may reasonably require from the Lessee to determine the Lessee's compliance with Section 2 of this Schedule A.

### 6. Audit

The Lessor reserves the right to audit the books, records and accounts of the Lessee pertaining to its operation of the Lands and Building or otherwise pertaining to this Lease at any reasonable time.

SCHEDULE B  
DEVELOPMENT AGREEMENT

*[Insert copy of executed Development Agreement]*

END OF SET

REQUEST FOR PROPOSALS NO. PSVAHA2017-05  
DEVELOPMENT PARTNER FOR 1190 BURRARD STREET, 1210 SEYMOUR STREET AND 177 WEST  
PENDER STREET  
PART D - FORMS OF AGREEMENT

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PART D

FORMS OF AGREEMENT

Appendix B to Part D

Development Agreement

# DEVELOPMENT AGREEMENT

This Agreement is made as of the \_\_\_ day of \_\_\_\_\_, 2017,

## BETWEEN:

CITY OF VANCOUVER, a municipal corporation continued pursuant to the *Vancouver Charter*, and having its City Hall at 453 West 12<sup>th</sup> Avenue, Vancouver, British Columbia V5Y 1V4

(the "City")

## AND:

\_\_\_\_\_, a \_\_\_\_\_ incorporated under the laws of \_\_\_\_\_ and having an office at \_\_\_\_\_

(the "Developer")

## BACKGROUND:

- A. The City is the owner of the Lands and wishes to use the Lands for the development of affordable rental housing; and
- B. The Developer has agreed to finance and construct the Project and to enter into a lease to operate the affordable rental housing, all on the terms and conditions set out herein.

NOW THIS AGREEMENT WITNESSES that in consideration of the covenants and conditions set out below and other good and valuable consideration, the receipt and sufficiency of which is acknowledged and agreed to by the parties, the City and the Developer now agree as follows:

### 1. INTERPRETATION

#### (a) Defined Terms

In this Agreement, the following terms have the following meanings:

"Access Licence" means the licence attached as Schedule B.

**"Affordability Requirements"** has the meaning set out in Section 3(a).

**"Agreement"** means this agreement including all schedules referred to in Section 27.

**"Business Day"** means any day that is not a Saturday, Sunday, or "holiday" as defined in the *Interpretation Act* (British Columbia).

**"Business Hours"** means 9:00 A.M. - 5:00 P.M. on any Business Day.

**"Class B Construction Cost Estimates"** means an estimate of the cost of construction for the Project with a level of precision that is based on the degree of completion of the Project Design at the time of preparation of the estimate, which shall be when all site or installation investigations are completed and the design of the major systems and sub-systems of the Project (including outline specifications and preliminary drawings and models) are well underway. Class B Construction Cost Estimate shall be presented in elemental format and include labour and material costs, allowance for all costs resulting from the Project Schedule, all actual associated costs, including cash allowances, contingencies, allowances for design, escalation, market conditions and anticipated amendment amounts as applicable.

**"Competitively Procure"** means to publicly and openly solicit competitive bids or proposals on a basis that achieves best value for money and in a manner approved in advance by the City, acting reasonably.

**"Construction Phase"** means the period starting on the Lease Green Light and ending on total completion of construction for the Project.

**"Construction Phase Obligations"** has the meaning given to it in Section 10.

**"CRU Proceeds"** means the estimated, and upon receipt the actual, gross revenue generated by the Developer from the sale of the sub-lease(s) of the CRU Units.

**"CRU Units"** means any commercial retail units constructed within the Project and sub-leased to third parties in return for the CRU Proceeds, and **"CRU Unit"** means any one of them.

**"Debt Financing"** means construction and take-out financing arranged for the Project on market terms such that the return of and return on such financing is paid from the operating revenues of the Project in priority to all other financing.

**"Development Permit"** means the development permit application(s) to be submitted by the Developer in respect of the Project with the City's Consent.

**"Effective Date"** means the date written first above.

**"Effective Date Pro Forma"** means the Pro Forma attached as Schedule C to this Agreement.

**“Environmental Contamination”** means any substance which is capable of causing pollution or contamination to air, land, water and ground water (but excluding buildings and other improvement in accordance with the definition of Hazardous Construction Materials below) and includes, without limitation, explosives, radioactive materials, contaminants, deleterious substances, underground or above-ground tanks, lead, asbestos, asbestos-containing materials, hazardous, corrosive or toxic substances, hazardous waste, special waste, waste (as defined in the *Environmental Management Act* (B.C.)), polychlorinated biphenyls (“PCBs”), PCB-containing equipment or materials, pesticides, defoliants, fungi, including mould and spores arising from fungi, or any other solid, liquid, gas, vapour, odour, heat, sound, vibration, radiation, or combination of any of them.

**“Financial Records”** means comprehensive accounting records in respect of the Project including underlying ledgers and bank records, segregating Project-related revenues and expenses from other revenues and expenses of the Developer, all in accordance with GAAP.

**“GAAP”** means generally accepted accounting principles as determined and published from time to time by the Canadian Institute of Chartered Accountants (and any successor professional body).

**“Governmental Authority”** means any governmental authority having jurisdiction over the Developer or the Project under applicable Laws and Regulations, including the City’s subdivision approving officer and the City in its capacity as a regulatory authority as opposed to a party to this Agreement.

**“Hazardous Construction Materials”** means (but only with respect to buildings and other improvements) any substance which is capable of causing pollution or contamination to air, land, water and ground water and includes, without limitation, explosives, radioactive materials, contaminants, deleterious substances, underground or above-ground tanks, lead, asbestos, asbestos-containing materials, hazardous, corrosive or toxic substances, hazardous waste, special waste, waste (as defined in the *Environmental Management Act* (B.C.)), polychlorinated biphenyls (“PCBs”), PCB-containing equipment or materials, pesticides, defoliants, fungi, including mould and spores arising from fungi, or any other solid, liquid, gas, vapour, odour, heat, sound, vibration, radiation, or combination of any of them.

**“HILs Unit”** means a Residential Unit in respect of which a HILs Unit Housing Charge is payable;

**“HILs Unit Housing Charge”** means the Housing Charge to be charged by the Developer to a HILs Unit Occupant from time to time during the term of the Lease, which shall be no more per month than 1/40 HIL’s Unit Occupant’s Income;

**"HILs Unit Occupant"** means one or more cohabiting adults, with or without cohabiting children, whose collective Income does not exceed the housing income limits as set out in the then-current "Housing Income Limits" table published by the British Columbia Housing Management Commission, or a successor or equivalent publication approved by the City;

**"Housing Charge"** means the charge, determined and assessed from time to time, payable monthly by an Occupant pursuant to an Occupancy Agreement for the right to occupy a Residential Unit;

**"Income"** of an Occupant (where "Occupant" includes all persons for whom the Residential Unit serves as the principal residence) means the total annual world-wide income before income tax from all sources of the Occupant, calculated as of the date when the Occupant becomes a resident of the Project, and includes without limitation, the following income sources:

- a. income assistance;
- b. employment, including regular overtime, vacation pay and gratuities;
- c. self-employment, including commission sales;
- d. seasonal employment;
- e. Employment Insurance and WorkSafe BC insurance;
- f. training allowances;
- g. income from the Resettlement Assistance Program;
- h. child support, maintenance payments or support from family/friends/community;
- i. rental income from real estate or dividends from stocks or bonds, if the real monthly Income is greater than the imputed income from the asset; and
- j. pension incomes including:
  - i. old Age Security, Guaranteed Income Supplement, Allowance, and Allowance for the Survivor (formerly Spousal Allowance);
  - ii. senior's supplement;
  - iii. private pension plans including Registered Retirement Income Funds;
  - iv. Canada Pension Plan, including retirement, disability, orphans, widows, disability for child, etc.
  - v. War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada (included for calculations with an effective date prior to January, 2013); and
  - vi. foreign pensions,

but does not include:

- k. earnings of dependent children aged 18 and under (regardless of student status);
- l. student loans, equalization payments, student grants and scholarships;
- m. taxable benefits, including living out or travel allowances, medical coverage, uniform allowance, etc.;

- n. Shelter Aid for Elderly Renters ("SAFER") and Rental Assistance Program ("RAP") payments;
- o. Canada Child Tax Benefits, including the National Child Benefit Supplement, Child Disability Benefit, BC Family Bonus, and BC Earned Income Benefit;
- p. Universal Child Care Benefits;
- q. BC Childcare Subsidy;
- r. income from foster parenting;
- s. Child in Home of Relative and Extended Family Program;
- t. income from approved live-in care givers;
- u. GST and Income Tax rebates; and
- v. War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada.

**"Key Project Personnel"** means the persons named in Schedule F - *Key Project Personnel* and any replacement(s) approved by the City in accordance with Section 2(d).

**"Lands"** means the property with a civic address of \_\_\_\_\_ and the following legal description:

PID: \_\_\_\_\_  
 \_\_\_\_\_

**"Laws and Regulations"** means any and all statutes, laws, regulations, orders, bylaws, standards, guidelines, protocols, criteria, permits, codes of practice and other lawful requirements of any federal, provincial, municipal or other Governmental Authority in force in British Columbia, including the principles of common law and equity, and including all applicable guidelines and standards with respect to the above as adopted by any of those Governmental Authorities from time to time.

**"Lease"** with respect to the Lands means a registered lease granted by the City to the Developer for a 60-year term with a prepaid rent of \$\_\_\_\_\_, and otherwise on the terms set out in Schedule A.

**"Lease Green Light"** means the event that occurs when all Lease Green Light Pre-Conditions are satisfied or waived by the City and Developer.

**"Lease Green Light Deadline"** is \_\_\_\_\_, 20\_\_, unless extended in writing by the City's City Manager.

**"Lease Green Light Notice"** means the notice to be issued by the City pursuant to Section 8 when the Lease Green Light Pre-Conditions have been satisfied.

**"Lease Green Light Pre-Conditions"** means the pre-conditions to a Lease Green Light which the Developer must satisfy prior to the Lease Green Light Deadline as further set out in Section 8.

**"Lease Green Light Pro Forma"** means a revised Pro Forma for the Project incorporating current financial information just prior to Lease Green Light, based upon the then-current Project Design for the Project, a Market Rent Analysis that was conducted or updated within the previous 6 months, the most-up-to-date loan agreements for Project Equity for the Project (or if same are not available the most up-to-date letters of intent, commitment letters or memoranda of understanding for such information as is then available) and based on Class B Construction Cost Estimates, and which sets out cash flows for the Project in the most accurate way feasible at such point in time.

**"Lease Pro Forma"** means a revised Pro Forma for the Project incorporating current financial information just prior to Lease Green Light, based upon completion of the Project Design for the Project, a Market Rent Analysis that was conducted or updated within the previous 6 months, and the final executed loan agreements and fixed price construction contracts for the Project, and which sets out cash flows for the Project in the most accurate way feasible at such point in time.

**"Losses"** means (1) all direct and indirect; as well as (2) consequential losses, damages, liabilities, deficiencies, costs and expenses (including without limitation, all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement).

**"Low-End of Market Unit Occupant"** means one or more cohabiting adults (18 years of age or older) with or without cohabiting children, whose collective Income does not exceed the low and moderate Income limit as determined by BC Housing from time to time based on data provided by Statistics Canada. For 2017, this figure is \$69,360 for a residential unit with less and two bedrooms and \$99,910 for a residential unit with two or more bedrooms;

**"Low-End of Market Unit"** means a Residential Unit in respect of which a Low-End of Market Unit Housing Charge is payable;

**"Low-End of Market Unit Housing Charge"** means the Housing Charge to be charged to a Low-End of Market Unit Occupant which shall not exceed 90% of the appraised market rent for a comparable unit in the local area and shall be no more than 30% of the low and moderate Income limit as determined by BC Housing from time to time based on data provided by Statistics Canada;

**"Market Consultant"** means \_\_\_\_\_ or another real estate market consultant approved by the City and retained by the Developer at its sole cost from time to time.

**"Market Rent Analysis"** is the then current residential unit rental report prepared by the Market Consultant as it may be updated from time to time pursuant to the terms of this Agreement.

**“Material Change”** means any change to the Project which (a) affects the Affordability Requirement (as determined by the City, acting reasonably), (b) affects any line item on the Pro Forma that is greater than \$500,000 by more than \$50,000 or 5%, whichever is less, (c) affects any line item of less than \$500,000 by more than \$50,000, or (d) affects the Project Schedule by more than 7 days for any one critical path item or more than 14 days in the aggregate (unless longer periods are reasonably required in the circumstances).

**“Maximum Rent”** means the annual gross rental income that would be achievable for the Project in the open market at full lease-up, as estimated by the Market Consultant in the Market Rent Analysis from time to time. If the Market Consultant provides a range as an estimate of the annual gross rental income that would be achievable for the Project in the open market at full lease-up, then the Maximum Rent shall be deemed to be the mid-point of that range.

**“Occupancy Agreement”** means an agreement, lease, license or other right of an Occupant to occupy a Residential Unit that complies with the requirements of the Lease;

**“Operating Surplus”** has the meaning set out in the Lease and is to be calculated consistently with how it is calculated in the Pro Forma.

**“Party”** or **“Parties”** means a party to this Agreement.

**“Personnel”** means officials, employees, contractors, subcontractors, agents, licensees, invitees, and permittees (but excludes members of the public unless expressly stated and included in any provision of this Agreement).

**“Privacy Legislation”** means the *Freedom of Information and Protection of Privacy Act* (British Columbia), *Personal Information Protection Act* (British Columbia), or the *Access to Information Act* (Canada) and *Privacy Act* (Canada), as applicable.

**“Pro Forma”** means a capital, operating, and cash flow budget for the 60-year period following commencement of construction of the Project as described in Section 3(b), and substantially in the form attached as Schedule C, as updated, revised, and approved by the City from time to time, acting reasonably, in accordance with this Agreement, and for certainty includes the Effective Date Pro Forma.

**“Project”** means the rental housing project as set out in the Project Design.

**“Project Cancellation”** has the meaning set out in the Lease.

**“Project Design”** means the design of the Project approved by the City and the Developer pursuant to this Agreement, as amended from time to time pursuant to the terms of this Agreement.

“**Project Equity**” means cash invested in the Project by Project Equity Investors, on market terms such that the return of and return on such financing is paid from the operating revenues of the Project, as described in the Pro Forma for the Project. **[NTD: To be deleted if inapplicable]**

“**Project Equity Investor**” means an entity who commits to invest Project Equity. **[NTD: To be deleted if inapplicable]**

“**Project Management Team**” or “**PMT**” has the meaning set out Section 2(a).

“**Project Records**” means the Financial Records, schedule records, meeting records, meeting minutes, contracts, insurance, correspondence and all other information held by the Developer relating to the Project, excluding any communication subject to solicitor-client privilege.

“**Project Rent**” means the aggregate annual rent paid by the residential occupants of the Project.

“**Project Schedule**” means the schedule of target dates and deadlines set out in Schedule D - *Project Schedule*.

“**Residential Unit**” means a self-contained dwelling unit in the Project with its own kitchen, bathroom, and sleeping and living spaces;

“**Total Development Budget**” means the total design and construction costs of the Project as shown in the Pro Forma.

“**VAHA**” means the Vancouver Affordable Housing Agency Ltd., a corporation incorporated under the laws of British Columbia.

## 2. PROJECT MANAGEMENT

### (a) Project Management Team Structure and Meetings

A Project Management Team (“**PMT**”) will be formed with one representative designated by each of the City and the Developer from time to time. Each representative of the PMT (“**PMT Member**”) is now authorized to administer this Agreement on behalf of its principal Party and is the authorized agent of that Party for all matters under this Agreement.

The Developer PMT Member will take reasonably detailed notes of all PMT meetings and record all material decisions and approvals and promptly send to the City’s PMT Member for reference upon completion. The written approval of both the City’s and the Developer’s PMT Member is required for all matters requiring PMT approval under this Agreement.

PMT meetings will be held at least monthly unless unanimously agreed otherwise and more frequently as required to meet the timelines set out in this Agreement.

Where any PMT Member is unable to meet at the required time, the applicable Party will ensure that a knowledgeable replacement is sent to the meeting so as not to delay the Project.

Where reasonably possible, all meetings will take place in person (unless all PMT Members otherwise agree in advance to meet by tele- or video-conference) in Vancouver at the project office which is agreed to be at the offices of VAHA or such other location as the PMT Members otherwise agree.

**(b) Project Management Reporting**

The Developer will prepare and deliver to the PMT, and the PMT will review and decide how best to address the results of, a full update to the Project Schedule, Project Scope, Total Development Budget and Market Rent Analysis at the building permit application stage and construction contract documents issued for tender stage, and such other times as reasonable requested by the City.

**(c) Project Management Team - Approval and Consent Requirements**

Where any agenda item at a PMT meeting is not unanimously resolved or any part of this Agreement references a requirement to obtain the consent or approval (“Consent”) of the City’s PMT Member, the following parameters apply:

- (i) The Developer must obtain the City’s prior Consent before proceeding with any matter, action or decision concerning the Project, whether or not raised at a meeting of the PMT, which results in any Material Change.
- (ii) Except as described in paragraph (i) above, the Developer may proceed with any matter, action or decision concerning the Project without City’s prior Consent.
- (iii) City will not unreasonably withhold or delay giving Consent when requested to do so by the Developer, provided that City may withhold Consent on any matter if City determines, acting reasonably, that such change will or may adversely affect the Affordability Requirements, provided the adverse effect or effects, as determined by City, are set out in writing and in reasonable detail by the City and delivered to the Developer within the time periods required by this Section 2.

- (iv) The Developer will request Consent from City sufficiently in advance of when required to allow for a reasonable period to review and respond to such request. For Consents subject to timing constraints set out in the remediation, excavation or construction contracts, City will only be entitled to one Business Day less than the response period the Developer is required to adhere to under such contracts. In no event will City be entitled to more than 5 Business Days for the review and reply to a request for comments or Consent. All requests will be written and must include a date before which such Consents must be obtained. Consent will be in writing, and may be by way of an e-mail from the City's PMT Member to the Developer's PMT Member, as applicable.
- (v) Where the City does not notify the Developer that it gives its Consent or is withholding its Consent within the time required by this Agreement, the Developer has the right to proceed as though Consent had been given or to decline to proceed until such Consent is obtained.
- (vi) The Developer will be deemed to have Consented to all matters where it initiates the request for Consent and need not issue any formal Consent to City. This will similarly apply to City initiating a request for Consent (whereupon with respect to such Consent the rights and obligations of the Developer under this Section 2 will apply to the City and the rights and obligations of the City under this Section 2 will apply to the Developer).

(d) **Key Project Personnel**

The Developer shall use commercially reasonable efforts to:

- (i) retain Key Project Personnel for the duration of the Project;
- (ii) ensure that Key Project Personnel dedicate sufficient time to the Project such that the Project meets any and all target deadlines or milestones set out in this Agreement;
- (iii) promptly inform the City should any of the Key Project Personnel leave, or give notice of an intention to leave the Developer or the Project, and obtain a substitute or substitutes; and
- (iv) ensure that the Key Project Personnel perform their roles and responsibilities in accordance with any organisational structure agreed in writing between the Parties.

If:

- (v) the Developer wishes to reassign or to replace an individual designated as Key Project Personnel; or
- (vi) an individual designated as Key Project Personnel gives notice of his or her intention to leave or is otherwise no longer able to perform the duties, including for reasons of illness, injury, permitted leaves of absence (eg. sabbatical, paternal or maternal leave) or personal hardship,

the Developer will promptly provide a substitute with experience and qualifications equivalent or greater than the Key Project Personnel to be replaced, and will provide documentation to the City to establish such experience and qualifications.

(e) **City's Project Manager**

The City hereby nominates VAHA to act as project manager on its behalf for the Project and the Developer acknowledges and agrees to same.

3. **AFFORDABILITY REQUIREMENT**

- (a) The affordability requirements for the Project are:

**(i) [NTD: To be completed for each Project based on affordability requirements set out in the RFP]**

(collectively, the "Affordability Requirements").

- (b) Every Pro Forma in respect of the Project, including the Effective Date Pro Forma, the Lease Green Light Pro Forma, and the Lease Pro Forma, must comply with the following criteria:
- (i) The calculation methodology and assumptions must not be modified and must be applied consistently from one iteration of the Pro Forma to the next except where expressly otherwise permitted by this Agreement or the PMT.
  - (ii) The Affordability Requirement must be satisfied and properly reflected in the Pro Forma.
  - (iii) All capital and operating costs, including retirement of the Debt Financing and the Project Equity, must be comprehensively and accurately included and be adjusted for inflation/deflation and interest rate forecasts in accordance with best forecasting practices as approved by the PMT.
  - (iv) The Pro Forma must not include any costs or revenues that are not directly attributable to the Project as determined by GAAP.

- (v) The Pro Forma must include continuous and sufficient funding for capital rehabilitation over the term of the Lease.
- (vi) The Pro Forma must show breakeven or Operating Surplus for each of Years 1-60, where "Year" means a 365 day period starting on the 1<sup>st</sup> month following the issuance of the occupancy permit for the Project.
- (c) The Developer shall cause the Market Consultant to conduct a Market Rent Analysis within \_\_ days of the Effective Date, and updated approximately every \_\_ months until the issuance of an occupancy permit in respect of the Project. Market Rent Analysis will be updated by the Market Consultant from time to time during the Pre-Lease Phase, and during that portion of the Construction Phase up to issuance of the occupancy permit for the Project.
- (d) The City may from time to time prior to the issuance of an occupancy permit in respect of the Project retain another consultant to review the Market Consultant's work on the Market Rent Analysis. Any disagreement between the two analyses will be subject to Section 14.
- (e) As of the Effective Date, the City acknowledges that the Effective Date Pro Forma forecasts Project Rent that meets the Affordability Requirement.

#### 4. GENERAL OBLIGATIONS, ROLES AND RESPONSIBILITIES

##### (a) General Principles

###### (i) Each Party Bears All its Own Risks of Project Not Proceeding

Prior to Lease Green Light, the Parties are obligated to perform and pay for the obligations set out in this Agreement on the basis that if the Project does not proceed then each Party will bear their own resulting Losses and will have no right of recovery or claim on any basis from the other Party.

###### (ii) Exclusivity

The City will not, while this Agreement is in effect, effect any lease or other disposition of the Lands or any part thereof except to the Developer pursuant to this Agreement.

###### (iii) Indemnity

The Developer now agrees to indemnify the City for any and all Losses arising from any claim from any third party made against the City arising directly or indirectly as a result of the Developer's breach of their respective obligations to the City under this Agreement.

###### (iv) General City Contribution Limit Principle

Despite any other term of this Agreement,

- (A) the City's entire financial contribution to the Project is expressly limited to the obligations of the City explicitly set out in this Agreement; and
- (B) under no circumstances will the City provide any loan guarantee, operating subsidy, or other financial security, assistance or grant to the Project of any nature but for certainty, this clause is not meant to limit or alter the City's obligations under Sections 4(a)(i), 4(c)(ii), 4(c)(viii), 4(d)(i)(A) and 4(d)(v).

(v) Development Costs and Risk Borne by Developer

The Developer will be responsible for all unanticipated costs and risks, including without limitation and by way of example only, increased costs as a result of changes in Laws and Regulations, unanticipated regulatory approval requirements, and unanticipated financing and construction costs.

(b) **Financial Transparency**

- (i) For at least 2 years following the Effective Date, the Developer will maintain full and proper Financial Records.
- (ii) The City will be given, within 1 Business Day of any request for same, full access to the Financial Records during Business Hours ((as set out in Section 4(b)(ii)).
- (iii) The Developer will ensure that professional, qualified and experienced project managers have conduct of the Project and that the Developer's PMT Member and designates have the requisite competencies to properly record, track, organize and manage all of the Developer's consultants and maintain the Project Records.
- (iv) The City may retain a chartered accountant, financial analyst, quantity surveyor or other professional to review the Project Records at any time and from time to time within 1 Business Day of a request to do so and the Developer will then provide the City with unlimited access to same at all times during Business Hours. The Developer will not be entitled to charge the City any fees for this review but are not obligated to pay for any of the City's costs of conducting such reviews. The City will be given commercially reasonable access to the Developer's computers, printers, and photocopiers in order to examine and make copies of such Project Records (all subject to applicable privacy and personal information legislation) and will cause the City's Personnel to sign any commercially reasonable non-disclosure or confidentiality agreements as are required by the Developer to comply with any obligations it may have to third parties or under Privacy Legislation.

(c) **Demolition**

- (i) Costs for demolition of any improvements on the Lands and the removal of all debris will be the responsibility of the Developer, with the exception of any incremental costs for the removal of Hazardous Construction Materials (which incremental costs will be the responsibility of the City).
- (ii) The City will retain, at its sole cost, a consultant to assess the building improvements on the Lands for Hazardous Construction Materials, and will upon completion of that assessment promptly deliver the report and any related relevant information to the Developer.
- (iii) The Developer will apply for and obtain the requisite regulatory permits to carry out the demolition, and then prepare, issue, evaluate, and administer the necessary drawings, specifications, procurement, and contractual documentation for the demolition, provided that the PMT has reviewed and approved of such documentation prior to issuance and prior to award.
- (iv) The Developer will also at its sole cost and expense (once the PMT has reviewed and approved the documents for same) Competitively Procure a demolition contractor to carry out the demolition, provided however that no award of the demolition contract(s) will be made except with the approval of the PMT and on or after Construction Green Light.
- (v) Whether or not the Hazardous Construction Materials assessment reveals the existence of Hazardous Construction Materials, the City reserves the right to require such procurement documents to clearly require bidders to give fixed lump sum or fixed unit rate prices for the removal of Hazardous Construction Materials so that, upon award of the contract, there is a clear articulation and quantification of the incremental costs of removing any Hazardous Construction Materials.
- (vi) In the event that previously unidentified Hazardous Construction Materials are discovered during demolition, the Developer will immediately notify the City of the nature and extent of the Hazardous Construction Materials and allow the City to work co-operatively with the Developer to agree with the demolition contractor on the scope of work and reasonable costs to remove same.
- (vii) The Developer agrees that incremental costs are strictly limited to the costs payable to the demolition contractor for the physical removal and disposal of Hazardous Construction Materials which, but for their existence, would not have been payable by the Developer in having the improvements demolished and removed from the Lands and for further certainty, expressly exclude any and all related or resultant consultant costs, delay claims or costs, or any other Losses resulting from the removal and disposal of any Hazardous Construction Materials.

- (viii) The City will reimburse the Developer for such incremental costs within 30 days of receiving a copy of the demolition contractor's invoice for same from the Developer clearly showing the incremental costs as a separate line item or items. Where the City decides to dispute the invoice, the Developer will cooperate with the City and take all such steps as are necessary but the incremental costs and risks of such steps will be borne solely by the City.

(d) **Environmental Remediation**

- (i) Subject to the other terms of this Section:
  - (A) the City will be responsible for and pay the cost of remediating to applicable residential standards any Environmental Contamination of the Lands which is in existence prior to the Effective Date and required to be remediated by applicable Laws and Regulations, including by way of example only and without limitation any remediation required by the BC Ministry of Environment to obtain a Certificate of Compliance or Final Determination; and
  - (B) the Developer will be responsible for all costs of excavation, fill, and all other soils-related work on the Lands, with the exception of any incremental costs for the remediation of Environmental Contamination which will be the responsibility of the City.

For further certainty, the City is not responsible for remediating, nor paying the cost of remediating any Environmental Contamination, not required by Laws and Regulations to be so remediated.

- (iv) The Developer agrees that incremental costs are strictly limited to the costs payable to the excavation contractor or environmental consultant for the physical activities of removal, testing and disposal of Environmental Contamination which, but for their existence, would not have been payable by the Developer in having soils excavated and removed from the Lands, including costs associated with excavation water management, but for further certainty, expressly exclude any and all related or resultant consultant costs, delay or design claims or costs, or any other Losses resulting from the remediation or removal of any Environmental Contamination. By way of example only and without limitation, this means that:

- (C) where any Governmental Authority requires the installation of engineered protection systems to obtain a Certificate of Compliance, the City will be responsible for the cost of designing, installing, maintaining and the ongoing performance of these protection systems (including performance verification testing and reporting to the Ministry of Environment), but the Developer would remain responsible for designing the rest of the Project to accommodate the protection system, the delays if any incurred in designing the engineered protection system and designing the rest of the Project around it, any interest or other costs arising from such delay and any increased costs of development or construction created by the requirement and any other related costs incurred as a result of the Governmental Authority requiring such remediation systems to be installed;
  - (D) where contaminated soil may be disposed of at a licensed landfill but a higher fee is charged than for un-contaminated soil, only the differential in the fee would be payable by the City and the Developer would remain liable to pay all excavation and haulage costs and the regular portion of the disposal fee; and
  - (E) where assessments or remediation beyond that required by Laws and Regulations is required by the Developer's lender or others, the Developer would remain solely liable for the costs of same.
- (v) The City will reimburse the Developer for such incremental costs within 30 days of receiving a copy of the remediation contractor's invoice for same from the Developer clearly showing the incremental costs as a separate line item or items. Where the City decides to dispute the invoice, the Developer will cooperate with the City and take all such steps as are necessary but the incremental costs and risks of such steps will be borne solely by the City.
  - (vi) In no event will the City be responsible for any delay claims or unanticipated costs of any nature whatsoever on the Lands, including any delays or unanticipated costs which may occur during the remediation and removal of Environmental Contamination.

(e) **Design and Construction**

- (i) Except where modified with the prior written Consent of the City's PMT Member, the Developer must design the Project to have a minimum of \_\_\_ separate residential dwelling units.
- (ii) The Developer must design the Project in accordance with all Laws and Regulations.
- (iii) Except where modified with the prior written Consent of the City's PMT Member, the Developer must design the Project so as to have the mix and distribution of dwelling units set out in Schedule E.

- (iv) The Developer will utilize all or substantially all of the available permitted zoning allowance for commercial retail units on the Lands.

5. **PRE-LEASE OBLIGATIONS, ROLES AND RESPONSIBILITIES**

(a) **City Design and Approval Obligations**

The City confirms its good faith intent to facilitate the PMT activities and approval requirements which are described in this Agreement and which require City staff to perform. The City will act in a commercially reasonable manner in order that the Lease Green Light Pre-Conditions can be satisfied by the Developer in a prompt and timely manner.

(b) **Developer Pre-Lease Obligations**

The Developer will, at its sole cost, and within the time required for such milestones to be achieved in accordance with the Project Schedule, utilizing appropriate consulting or employed personnel:

- (i) utilizing the Market Consultant, undertake the Market Rent Analysis and update it from time to time as required by this Agreement;
- (ii) lead the community engagement to build community support for the Project and submit a community engagement plan to the City for approval; and
- (iii) apply for the Development Permit and obtain the Development Permit prior-to letter in respect of the Project.

(c) **Target Milestones**

Despite the Lease Green Light Deadline, the Developer will work diligently to obtain issuance of the Development Permit for the Project no later than \_\_\_\_\_.

(d) **Financing**

- (i) The Developer will, at its sole cost, and within the time required for such milestones to be achieved in accordance with the Project Schedule and where applicable, for such deliverables to be reviewed and approved by the PMT in accordance with the Project Schedule:
  - (A) secure a legal agreements legally obligating the payment to the Developer of the Project Equity, such legal agreements to legally require payment of the Project Equity at the times and amounts as are detailed in the approved Lease Green Light Pro Forma, and in any event to be subject to only those conditions which the City has approved, acting reasonably; and

- (B) secure Debt Financing in the amounts necessary to, in conjunction with the Project Equity and CRU Proceeds, pay for the Project and meet the Affordability Requirements, as evidenced by an enforceable loan commitment the conditions of which (other than registration of any required mortgage security at the LTO and the actual advance of the funds) have been satisfied prior to Lease Green Light.
- (ii) If the Developer receives any capital contributions for the Project from the provincial or federal government, either directly or through a Crown corporation or agent of the provincial or federal government, such contribution shall be utilized so as to exceed rather than just meet the Affordability Requirements.

## **6. CRU UNITS**

The Developer shall use a form or forms of sublease as may be approved in writing by the City from time to time, for any and all subleases of the CRU Units.

## **7. ACCESS LICENCE**

The City now grants to each of the Developer a licence to access the Lands on the terms set out in Schedule B.

## **8. LEASE GREEN LIGHT PRE-CONDITIONS**

### **(a) Obligation to Satisfy Conditions**

The City and the Developer will work together cooperatively to expeditiously satisfy the following Lease Green Light Pre-Conditions on or before the Lease Green Light Deadline. Notwithstanding the Lease Green Light Deadline, the City will reasonably consider any request by the Developer for an extension to the Lease Green Light Deadline, provided that the Developer has been acting in a commercially reasonable manner in attempting to satisfy the Lease Green Light Pre-Conditions.

### **(b) Description of Lease Green Light Pre-Conditions**

The following Lease Green Light Pre-Conditions must be met or waived in order for the Lease Green Light Notice to be issued:

- (i) The Lease Green Light Pro Forma has been prepared and approved by the City as meeting or exceeding the Affordability Requirements;
- (ii) The Development Permit prior-to letter has been obtained;
- (iii) The City and Developer have prepared an execution version of the Lease and confirmed to each other that it are in a form acceptable for execution by them upon Lease Green Light; and

- (iv) The Developer has obtained commitment letters, letters of intent and/or memorandums of understanding in respect of the Project Equity and Debt Financing on terms and conditions approved by the City.

(c) **Benefit/Waiver of Lease Green Light Pre-Conditions**

All Lease Green Light Pre-Conditions are for the mutual benefit of both the City and the Developer and no Lease Green Light Pre-Condition may be waived unless both parties agree in writing to waive same.

(d) **Satisfaction of Lease Green Light Pre-Conditions**

Upon the PMT Members confirming the satisfaction of the Lease Green Light Pre-Conditions, the City will, within 4 Business Days, cause the City's Director of Legal Services to issue the Lease Green Light Notice and Lease Green Light will be deemed to have occurred as of the date of such Lease Green Light Notice, and the parties will then become legally bound to comply with the Construction Phase Obligations. If the City becomes obligated to issue, and for any reason neglects or fails to issue the Lease Green Light Notice, within the above-stipulated time period, then the Lease Green Light Notice will be deemed to have been issued as at 12:01 AM on the 5<sup>th</sup> Business Day following satisfaction of the Lease Green Light Pre-Conditions.

(e) **Pre-Condition to Construction Phase Obligations**

Unless and until the Lease Green Light Notice is issued and delivered by the City's Director of Legal Services to the Developer, Section 10 will have no legal force or effect and Lease Green Light will be deemed not to have occurred.

(f) **Failure to Meet Lease Green Light Pre-Conditions**

In the event that the Lease Green Light Pre-Conditions are not satisfied and the Lease Green Light Notice is not issued on or before the Lease Green Light Deadline then this Agreement will be deemed to be cancelled and will have no further legal force or effect except for those provisions which by their nature are intended to survive such cancellation such as by way of example only and without limitation, each party's obligations to pay those costs for which their assumed liability during the Construction Phase, and the Developer's obligations under the Access Licence expressed to survive its cancellation. Notwithstanding the foregoing, the City agrees to act in good faith in considering any request by the Developer to extend the Lease Green Light Deadline in order that the Developer can achieve the Lease Green Light Pre-Conditions.

**9. MATERIAL CHANGES TO PROJECT**

The Developer will not make or approve any Material Changes to the Project, without the written Consent of the City's PMT Member.

**10. CONSTRUCTION PHASE OBLIGATIONS**

Upon the issuance of the Lease Green Light Notice, this Section will then immediately take full legal force and effect and bind the parties in accordance with its terms:

(a) **Execute Lease**

The City and Developer will, within 10 Business Days of Lease Green Light, execute and deliver to each other the Lease in respect of the Project.

(b) **Register Lease**

The Developer will then, within 30 Business Days of Lease Green Light, cause the Lease to be registered on title to the Lands.

(c) **Completion of Project Design and Construction of Project**

The Developer will proceed with completion of the Project Design pursuant to this Agreement and will, in accordance with the Project Design and the requirements of this Agreement and the Lease, construct the Project, including but not limited to:

- (i) applying for and obtaining all demolition, excavation, building and other permits required by Governmental Authorities to complete the Project;
- (ii) obtaining the necessary crane over-swing and under-pinning agreements; and
- (iii) Competitively Procuring all necessary agreements for the excavation and construction of the Project in accordance with the Project Design.

(collectively, the "Construction Phase Obligations").

**11. LEASE COMMENCEMENT DATE**

The Lease will commence on the date of Lease Green Light.

**12. UNAVOIDABLE DELAY**

- (a) Subject to the exceptions set out in Section 12(c), time periods for the performance under this Agreement will be extended for periods of time during which the performance is delayed or prevented due to an Unavoidable Delay.
- (b) An "Unavoidable Delay" means any circumstances beyond the parties' reasonable control such as failure to obtain any required regulatory approval or other governmental action impeding the Project, acts of God, strikes/lockouts, war, or other strife. However, despite the preceding sentence, an Unavoidable Delay does not include:
  - (i) any lockouts, strikes or other disputes between the City or the Developer and their respective employees, or
  - (ii) anything which causes Project Cancellation.

- (c) This Section 12 does not apply to the performance of any obligations of the parties to pay money in connection with this Agreement nor obligations of the Developer to satisfy the conditions necessary to avoid Project Cancellation.
- (d) Whenever a party is aware of an event or any circumstance which constitutes or could constitute an Unavoidable Delay, it will promptly provide the other party with a written notice of:
  - (i) the particulars of the cause of any anticipated Unavoidable Delay;
  - (ii) the anticipated length of the Unavoidable Delay; and
  - (iii) steps that the notifying party intends to take to mitigate or overcome any delays caused by the actual or expected Unavoidable Delay.

### 13. CONTRACT DOCUMENTS / INTERPRETATION

#### (a) Contract Documents

The terms and conditions of this Agreement including all of its Schedules will govern the legal rights and obligations of the parties with respect to the subject matter of this Agreement. This Agreement and its Schedules are complementary, and what is called for by any one of them will be as binding as if called for by all. In the event of any inconsistency or conflict between the terms and conditions of this Agreement and any of the terms and conditions contained in any of the Schedules, the provisions of this Agreement will take precedence and govern.

#### (b) Audit Rights/Procedures

Each party has the right, at its own expense and upon 5 Business Days' notice to either of the other parties, review and inspect all of that other party's Project Records, as applicable.

Each party agrees to retain all source records, data, financial information and all other information in all media relating to this Agreement:

- (i) at an office within the City of Vancouver at all times, and
- (ii) for a period of at least six years following the event, transaction or occurrence to which the record relates except that no record need be retained following five years after the expiry or sooner cancellation of this Agreement.

14. **DISPUTE RESOLUTION**

(a) **Direct Negotiation Proceedings**

In the event of any dispute between the parties, the parties will use reasonable good faith efforts to engage in direct negotiations among the Developer's PMT Member and the City's PMT Member, or their respective designates, no more than five calendar days after such dispute arose (or such longer period as the representatives may agree to in writing).

(b) **Time Limit on Negotiation**

If the parties fail to meet to carry out such negotiations within the period so limited in the preceding paragraph or the parties fail to resolve such dispute within 10 Business Days after direct negotiations relating thereto has commenced (or such longer period as the representatives may agree to in writing), then the parties will resolve the dispute pursuant to Section 14(c). However, in any event and despite any other term of this Section 14, the parties agree that any breach of this Section 14 will not give rise to any liability for damages in contract, tort or any other basis or legal principle of any kind.

(c) **Arbitration Proceedings**

Subject only to Section 14(a) and (b), all disputes are required to be resolved by arbitration and will be resolved in accordance with this Section 14(c).

Whenever any party wishes to commence arbitration pursuant to this Section, that party may do so in accordance with the following procedures:

- (i) the arbitration will be commenced and finally resolved by arbitration under the rules of the British Columbia International Commercial Arbitration Centre ("BC ICAC") for domestic commercial arbitration;
- (ii) the arbitrator will be as agreed upon by the parties or, failing agreement, the appointing authority will be BC ICAC;
- (iii) the arbitration will be conducted in the City of Vancouver;
- (iv) the cost of the arbitration will be as determined by the arbitrator; and
- (v) the decision of the arbitrator will be final and binding on all parties.

## 15. PRIVACY / CONFIDENTIAL INFORMATION

In this Section:

“Confidential Information” means all information, documentation or knowledge, in any form, not generally known to the public, obtained directly or indirectly from the parties, or any one of them, in connection with this Agreement, including:

- (i) personal information about an identifiable individual, including but not limited to employee names, addresses and identification numbers,
- (ii) proprietary information including, but not limited to, any software, source code, patent, trademark, copyright, trade name or trade secrets,
- (iii) financial information, and
- (iv) any other similar information that exists or may arise in the future.

The Parties will:

- (a) comply with all applicable Privacy Legislation, and
- (b) not disclose, directly or indirectly, any Confidential Information to any person at any time, either during or after the termination of this Agreement except as necessary for the performance of its obligations hereunder, as authorized in writing by the parties, or as required by applicable Laws and Regulations.

## 16. COMMUNICATIONS

Each of the parties will appoint a spokesperson to speak on behalf of their respective organization with the media. All communications with the media will either be jointly made, or if by one party then only when first vetted and approved by the other party.

## 17. TIME IS OF THE ESSENCE

Time is of the essence of this Agreement.

## 18. ENTIRE AGREEMENT / AMENDMENTS

This Agreement is the whole agreement among the parties and will not be modified or waived except by further written agreement signed by those parties whose rights or obligations are being modified or waived.

## 19. GOVERNING LAW

This Agreement will be interpreted in accordance with, and governed by the laws of British Columbia and, subject always to the jurisdiction of the arbitrators appointed under Section 14, the courts of British Columbia will have exclusive jurisdiction and the parties irrevocably attorn to the jurisdiction of such courts.

## 20. COUNTERPARTS

This Agreement may be executed by e-mail in counterparts pursuant to the *Electronic Transactions Act* (British Columbia) all of which will be deemed originals and legally binding once delivered to each of the other parties' authorized e-mail addresses and such delivery is acknowledged by reply e-mail. Although not necessary to legally bind the parties, each party agrees to promptly circulate signed originals in sufficient number to the other parties for record-keeping purposes after completing the e-mail execution and delivery. All counterparts when executed and delivered (by e-mail or in paper form) will be construed together to be an original and will constitute one and the same agreement.

## 21. NOTICES

- (a) Any notice required or permitted to be given by one party to another pursuant to this Agreement must be delivered, mailed, or e-mailed to that party's designated PMT Member, or such other person, position, address as one party may advise the other from time to time or at any time in accordance with this or any other more specific provision of this Agreement.
- (b) Any such notice is deemed to be received: (i) if delivered, at the time of delivery, (ii) if mailed, three calendar days after the deposit of the mail, provided that if there is any known or anticipated postal disruption, parties will use all methods permitted hereunder other than mailing, or (ii) if transmitted by e-mail, immediately upon acknowledgement of its receipt by the recipient (and will be deemed not to be delivered where the acknowledgement is in the nature of an automated or "auto-reply" notice that the recipient is currently out of the office or otherwise unable to respond promptly or at all to the e-mail unless and until the recipient sends a non-automated reply).

## 22. THIRD PARTY CLAIMS

Each party will notify the other parties immediately upon the written threat or commencement of any actions or claims brought against that party, the outcome of which would affect the rights of any of the other parties under this Agreement, or the ability of that party to comply with its obligations under this Agreement.

## 23. SEVERABILITY

If any term of this Agreement is found by a court to be invalid for any reason, the invalidity will not affect the validity or operation or any other term. Should the parties fail to agree on the modifications to the Agreement in response to such finding of invalidity, either party will then be entitled to refer the matter to arbitration pursuant to Section 14. The arbitrator will then determine what modification or replacement to such term would be required in order to preserve the original intent of this Agreement and will then make such an award as is necessary to carry out such intent.

#### **24. SURVIVAL**

Despite any expiry or sooner cancellation of this Agreement, those terms which are intended or are in their context capable (whether or not expressly) of operating afterwards will continue in full force and effect. Without limiting the generality of this Section, any:

- (a) releases and indemnities; and
- (b) audit obligations,

set out in this Agreement will not terminate, but will survive any expiry or sooner cancellation of this Agreement.

#### **25. WAIVER**

The failure by either party to enforce at any time any of the terms of this Agreement, or the failure to require at any time strict performance by the other party of any of the terms of this Agreement, will in no way be construed to be a present or future waiver of the term, nor in any way affect the ability of any party to subsequently enforce the term. The express waiver by any party of any term must be in writing and signed by the waiving party. An express waiver will constitute a waiver of a future obligation to comply with the term only if there is an express reference to this effect.

#### **26. NO PARTNERSHIP**

Nothing in this Agreement will create or be interpreted so as to create a joint venture, partnership or any other form of relationship between any two of the parties other than covenantor and covenantee.

#### **27. SCHEDULES**

The following schedules are deemed to be attached to and, whether or not attached to the execution copies of this Agreement, are now incorporated by reference into this Agreement and form an integral part of it:

Schedule A - Lease Agreement

Schedule B - Access Licence

Schedule C - Effective Date Pro Forma

Schedule D - Project Schedule

Schedule E - Unit Mix

Schedule F - Key Project Personnel

**28. FURTHER ASSURANCES**

Each party on request of the other party will do and deliver or cause to be done and delivered all such further acts, documents, things and assurances as may be reasonably requested by the other party in order to perform the terms and the intent of this Agreement.

**29. SUCCESSORS AND ASSIGNS**

This Agreement will benefit and bind each party and its successors and permitted assigns.

**30. REASONABLENESS**

Subject to Section 32, wherever in any provision of this Agreement the City is required or empowered to give its Consent or approval or exercise its discretion, the City agrees not to withhold such Consent or approval nor exercise such discretion unreasonably or arbitrarily, unless the contrary intent is specifically expressed in such provision.

**31. CONSENTS AND APPROVALS**

Except as otherwise expressly set out in this Agreement, where this Agreement provides for any approval, consent or Agreement with respect to any matter:

- (a) it will be obtained before any action is taken on it;
- (b) it will be requested and responded to in writing; and
- (c) it will not be unreasonably withheld, except if this Agreement otherwise expressly stipulates, or delayed.

**32. CITY AS REGULATOR**

Notwithstanding any other provision of this Agreement, including without limitation Section 30 and 31, no requirement of the City to act reasonably or promptly or to not act arbitrarily when providing a Consent or approval shall apply to any decision, review or exercise of discretion by the City when acting in its regulatory capacity, including without limitation, decisions regarding the rezoning of the Lands or the issuance of any Development Permit, building permit or any other permit.

TO CONFIRM THEIR INTENT TO BE LEGALLY BOUND TO THIS PROJECT FUNDING-  
DELIVERY AGREEMENT, the parties have executed this document in the spaces  
provided below.

**CITY OF VANCOUVER**  
by its authorized signatory:

---

Name:  
Title:

---

by its authorized signatory(ies):

---

Name:  
Title:

---

Name:  
Title:

SCHEDULE A  
LEASE

**SCHEDULE B  
ACCESS LICENCE**

**1. Grant of Licence/Term**

- (a) Subject always to the other terms and conditions of this Agreement, any third party tenancy or licence agreement, and this Licence, the City now grants to the Developer a non-exclusive licence ("Licence") to use the Lands for the purpose only of performing its obligations under this Agreement prior to Lease Green Light (as defined in this Agreement), PROVIDED ALWAYS THAT this Licence will automatically be cancelled upon Lease Green Light.
- (b) The Developer must give at least 1 Business Day's prior written notice to the City's Director of Real Estate Services prior to exercising its access rights the Lands and such access will then be granted or delayed in accordance with the rights of any existing third party tenant or licensee.
- (c) The City will, on request, provide the Developer with a copy of any existing third party tenancy or licence agreement.

**2. Licence Fee/Permits**

(a) Licence Fee

The Developer will pay \$NIL per month (not including applicable taxes) in advance on or before the 1st day of each calendar month during the term for the use of the Lands. However, the Developer remains fully liable for all other costs and fees payable under all applicable Laws and Regulations (excluding lost rental revenue) associated with the Developer's access to and use of the Lands.

(b) Permits

The Developer will obtain and comply with all required permits and pay all applicable permit fees associated with its use of the Lands and will otherwise comply with the requirements of this Agreement.

**3. No Assignment**

The rights granted to the Developer regarding the Lands are personal to the Developer and the Developer may not assign, license, part with, or otherwise transfer these rights without the prior written Consent of the City, which Consent may be unreasonably or arbitrarily withheld.

**4. Lands Licensed "As Is"**

The Developer acknowledges that the City has made no representations or warranties as to the state of repair of the Lands, the safety of the Lands, the location of any utilities or City works thereon, the stability or state of the soil thereon, or the suitability of the Lands for any business, activity or purpose whatsoever. The City shall not be obliged to furnish any services or facilities or to make repairs or alterations in or to the Lands.

## 5. No Damage

The Developer shall, at its own cost:

- (a) not permit or suffer waste or injury to the Lands or any part thereof and shall not use or occupy or permit to be used or occupied the Lands or any part thereof for any unlawful purpose;
- (b) maintain the Lands in a sanitary, neat, tidy and safe condition and free from nuisance at all times;
- (c) not release, dump, spill or place, or allow to be released, dumped, spilled or released on the Lands any or Environmental Contamination (as defined in this Agreement); and
- (d) repair any damage caused to the Lands by the Developer or its Personnel (including members of the public) to the satisfaction of the City's PMT Member.

## 6. Indemnity

The Developer shall release, indemnify and save harmless the City and its Personnel from all Losses of any nature whatsoever relating to or arising from the Developer's occupation and/or use of the Lands and from all actions, claims, demands, suits and judgments against the City or its Personnel on account of injury or death occurring in or about the Lands and damage to or loss of property occurring in or about the Lands or relating to or arising from the Developer's occupation and/or use of the Lands (including claims under the *Occupier's Liability Act*). For certainty, this indemnity will not apply to any loss of rental revenue incurred by the City arising from the grant of this Licence to the Developer.

## 7. Builder's Liens

The Developer shall not permit any builders or similar liens, charge or encumbrance to be registered on title to the Lands. If any such liens, charge or encumbrance are registered on title to the Lands, the Developer shall immediately pay into court or otherwise the amount required to discharge same.

## 8. Licence Only - No Interest in Land

It is the express intention of the City and the Developer that the granting of this Licence will not create between the City and the Developer a landlord and tenant relationship. It is specifically agreed that this Licence does not grant an interest in land to the Developer.

SCHEDULE C  
EFFECTIVE DATE PRO FORMA

**SCHEDULE D  
PROJECT SCHEDULE**

SCHEDULE E  
UNIT MIX

Total Number of Units	
# of 1 Bedroom Units	
# of 2 Bedroom Units	
# of 3 Bedroom Units	
# of 4 Bedroom Units	

SCHEDULE F  
KEY PROJECT PERSONNEL